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CURING THE CRIMINAL

A TREATISE ON THE PHILOSOPHY AND PRACTICES OF MODERN CORRECTIONAL METHODS

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CURING THE CRIMINAL

A TREATISE ON
THE PHILOSOPHY AND PRACTICES OF
MODERN CORRECTIONAL METHODS

BY
JESSE O. STUTSMAN, 1871-

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TO

MY WIFE AND CO-WORKER

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PREFACE

It was only after an active experience of eighteen years in research and correctional work, in more or less intimate contact with not less than 50,000 convicts of all classes, young and old, male and female, felons and misdemeanants, of many races, mental conditions and degrees of criminality, that the writer was willing to compile his findings on the nature of the work he has been attempting to perform.

Many able and comprehensive articles have appeared from time to time on sporadic phases of criminology and correctional methods; but seldom has any prison manager undertaken to present a concise statement of the philosophy and practice of modern methods.

The police, the courts and custodial institutions operate upon widely divergent plans for the accomplishment of the same purpose, namely, the protection of society and the elimination of crime. As a result, our efforts have been somewhat scattered, in some instances contradictory and correspondingly futile. The crying need of the day is a closer amalgamation of the many powerful protective agencies into an organic whole, with uniform methods and ideals for the accomplishment of the same worthy purpose.

The newer methods of reformation are laying hold of public consciousness in some communities—in others, modern methods are criticized because their theory is not fully comprehended. The purpose of this treatise is to show that the dawning science of modern methods is founded upon a better understanding of the psychology of the criminal personality and the necessity for individual treatment.

The average subordinate officer or employee, who is fitting himself for usefulness in the field of criminology, does not have the time nor the disposition to do extensive reading, yet he feels the need of understanding more fully the purpose of methods he is called upon to follow. The class in criminology has access to voluminous literature upon various phases of penology, but it has little opportunity to hear first hand the views and experiences of the warden.

If this humble effort to present the necessity of a more thorough individualization of treatement, based upon scientific analysis of the criminal's real needs, helps to realize these objectives, the author will feel that his effort has not been in vain.

JESSE O. STUTSMAN.

Bellefonte,
Pennsylvania.

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CHAPTER I

INTRODUCTION:—THE PROBLEM OF CRIME

1. *The Nature of Public Interest.*—It would appear that the whole world is interested in the criminal, his exploits and his punishment. Newspapers cater to this interest and fill their columns with harrowing stories of his escapades. If you pick up any edition of your favorite "Daily" your eyes will fall upon headlines such as, "Trio of Desperate Young Bandits Arrested in Hold-up," "Lone Robber Secures $10,000 in Jewels," "Police Battle with Thugs," "Court Sends Bank Robber to Prison," "Purse Snatcher Pursued by Crowd on Fifth Avenue," "No Clue to Mysterious Murder in Tenement," "Police Seek Writer of Blackhand Notes," "Many Bogus Checks Passed on Firms," "Bootlegger's Stock Confiscated," etc., etc., *ad infinitum,* until you often wonder if there is any popular news that does not refer to crime in some particular. The press recognizes a popular taste for the unusual, the mysterious and the spectacular, and vividly portrays tales of the match of human wits—the outlaw against society and society against the outlaw, with ever varying and exciting details. Tragical events, stranger than fiction, are ever unfolded before us while we read and marvel at the peculiar traits of human nature. We wonder why men engage in such strange adventures; how they could get enjoyment from such despicable deportment; what urges motivate their desperate actions; where do criminals originate; are

they different from other people, and, if so, in what particulars and why; and will society ever be free from their anti-social ravages. A thousand questions surge through our bewildered minds as we read of their venturesome, selfish, cunning escapades. Biologists, psychologists, penologists, clergymen, financiers, laborers, and people of every vocation and profession speculate about the criminal with varied motives, moulded by their individual slants and attitudes. Some of these thoughts are vindictive, some humane, some scientific and some purely morbid.

2. *The Wastefulness of Crime.*—Crime is a prodigious expense to any nation, in fact, so great and so complex that it can scarcely be computed. The agencies for its solution are multitudinous; the police, troopers, courts, lock-ups, jails, workhouses, penitentiaries, reformatories, as well as private agencies by the hundreds; all of which maintain a vast army of employees who plan and labor, night and day, to stop the havoc. No definite statistics have ever been compiled to portray the actual cost of crime in the United States, but numerous estimates have been made, running from one billion to several billion dollars per year.

In one county, which may be regarded as having average conditions, and populated with 1,100,000 people, the annual expense of police, courts, probation, sheriffs, jail, prison, juvenile court, parole, and all other activities employed in the detection, arrest, detention, conviction and correction of offenders of all classes, aggregated a total outlay of $7,348,168 in 1922. If we could regard that community as a criterion of the entire nation on the basis of population, the aggregate actual governmental expense for the United States would be the enormous sum of $734,816,800, to protect the country from the terrific waste and destruction wrought by its anti-social classes.

However, these figures only begin to depict the extravagances to which our nation is driven by the criminal. It

must be remembered that the vast army of citizens required to man all the crime checking agencies are in an economic sense non-productive. The hundreds of thousands of policemen, detectives, judges, attorneys, court attaches, militia, prison officials, and other disciplinary servants of the people, might, if it were not for crime, turn their efforts into commercially and industrially productive channels.

Yet, with all this extravagance, we have scarcely begun to calculate the cost of crime. William F. Joyce, Chairman of the National Surety Company, in the "Journal of the American Institute of Criminal Law and Criminology," August, 1923, estimated that the annual depredations of various crimes defrauded the people of this nation out of the following tremendous sums:

Burglars	$225,000,000
Bandits	50,000,000
Common thieves	150,000,000
Embezzlers	125,000,000
Fraudulent bankrupts and credit swindlers	100,000,000
Forgers and check raisers	125,000,000
Stock and land frauds and confidence games	2,000,000,000

This is only an estimate, although made by a shrewd business man, who by training and experience is peculiarly fitted to make such an estimate and whose mature judgment must be given weighty consideration. It does not, however, include the loss of public money through political graft, smuggling, evasion of taxes, arson for insurance, and several other common methods of exploitation. Other estimates have been made from time to time by economists and penologists ranging from one to seven billion dollars per year.

But the total of all these expenditures and fraudulencies, does not yet cover the total costs. The destruction of millions in property, the loss of thousands of lives, the dissipation of productive power and peace of mind, the misery in

many broken homes, surpassing the imagination to conceive, are the constant toll of the criminal. The enormous expense of locks, bars, strong safes, burglar alarms, fire arms and numerous other protective devices, as well as burglar insurance, could all be dispensed with if all men were honest. There is little wonder, then, that we are all intensely interested and that the papers thrive in the publication of criminal exploits.

3. *Crime a Social Problem.*—We will readily admit that crime in a community is no small problem. It is much more formidable and deplorable than pauperism and much more costly. Notwithstanding the persistent efforts of penologists for many years to mete out drastic punishment to criminals, the steady onrush of its perplexing ravages remains the most obstinate of social evils. If it were not for the tremendous outlay for self-protection, society would rapidly fall into dissolution.

The subject is important because none of us is ever free from the danger of criminal attack. Day or night, at home or on the street, we need not be greatly surprised to hear a gruff voice and to find ourselves holding up our hands in helplessness while we are separated from our property. In criminal despoliation life is often disregarded and several thousand persons each year are sacrificed, while the abominable crime traffic continues to thrive. With all the vast expenditures of money, the sacrifice of police officials, the studious efforts of courts, reformatories and prisons, crime is ever breaking out in new and unexpected places—a stupendous problem which society has hardly begun to solve. Hundreds of years, at least, of vindictive and deterrent punishment have fallen far short of a solution. Modern reformatory methods have only been partly successful. The big, living issue today in every circle—college, pulpit, platform, press—is what shall we do next?

4. *The Prevalence of Criminals.*—It is exceedingly dif-

ficult to estimate the number of criminals in society at any given time. Criminal statistics are always inadequate and contradictory. There has been no method devised to enumerate the number of crimes committed in a given year. Many crimes are committed which are known only to the criminals who perpetrate them; there are many repetitions of crimes by the same individual; there is much concealment of major and minor offenses, while many serious crimes do not result in the arrest and conviction of the criminal.

Approximately 500,000 convicts find their way to penal institutions annually, and about 150,000 prisoners constitute the population of our prisons and reformatories at any given time. Four million arrests were made in 1915 but this number evidently included many repeaters, while no doubt, many thousands committed crime who were not arrested.

According to statistics gathered by the United States Department of Commerce for the first six months of 1922 there were 163,889 prisoners of all classes, including some juvenile offenders in 6439 prisons, reformatories, jails, and workhouses in this country on July 1st, of that year. It has been estimated by penologists that only about one-tenth of the criminals are in prison at any one time. It would, therefore, be a safe estimate that there were no less than 1,638,890 criminals in the entire country at that time, or, one out of 67 of the whole population.

While it cannot be shown that the proportion of criminals is constant, various statisticians maintain that criminals constitute from one to two percent of our population. There are some who will contend that these figures are ridiculously small, and probably none will affirm that they are extravagant. A prodigious army, arrayed against society, which if systematically organized would create still greater havoc. Crime is a warfare against society, and

society has declared a warfare to quell it. If an army of one million men were suddenly to land on our shores and commit no greater wrongs than are committed by the army of criminals now mingled promiscuously in society, all our social and industrial activity would concentrate its united efforts to repel the invasion.

It must be remembered, however, that not all of these people are desperate characters. Many of them are merely unfortunate individuals, often more guilty of vice than crime. About 75% of the total number were guilty only of intoxication or of minor offenses growing out of drunkenness, drug addiction, or of vagrancy—the crime of being poor, or of being averse to work.

5. *Is Crime Increasing?*—The question is often asked, "Is crime becoming more prevalent?", and we hear of crime waves which seem to break periodically over our land. Society is becoming more complex as population increases and as industry and science advance. The progress of science and invention has introduced new laws and consequently new violations. A large proportion of our prison population is made up of men who have violated laws not in existence fifty years ago. Various traffic laws have been enacted contemporaneously with the advent of the automobile. An arrest for speeding was unknown twenty-five years ago. Automobile thieves have more than supplanted horse thieves which are practically obsolete in the present day. Many current laws were unnecessary before the day of congestion in our cities. The crime of receiving stolen goods was not punishable a comparatively short time ago. The white slave act and blue sky laws are of recent origin. Bombing was, of course, an unknown crime before the discovery of high explosives.

It is generally conceded that war is always followed by a period of unrest and unsettled social and economic conditions responsible for waves of crime. In the present age

of rapid communication through the medium of the telephone, telegraph, radio, and other modern devices, increasing the facilities for the apprehension of the criminal, a much larger proportion of offenders are brought to justice than in former days. In the distant past we did not have the daily newspaper to publish accounts of robberies, murders and other crimes, which fact makes it seem that there is much more crime today than in olden times. People of today are nearly as well informed about crimes committed in cities across the continent as with those in their own states, which fact makes it appear that crime is more prevalent. Statistics of the early days, if such were available, compared with those of today would doubtless reveal that there are not so many more criminal personalities in society now in proportion to the population than in any previous era; and while heinous and startling criminal extravagances of gunmen and other outlaws, in the present era of unrest, stampede the public, we can really congratulate ourselves that facilities for the detection and capture of criminals are making more consistent efforts to keep pace with the increase of crime. Sensational reports of desperate criminal adventures are so eagerly devoured by the reading public that they are given more prominent space in the papers than the subsequent arrest and conviction of the violators, with the result that the public gets the impression that an overwhelming majority of offenders escape without apprehension. It frequently happens also that a single gang of thugs will commit a large series of offenses, but finally all are apprehended and sent to prison.

6. *Prophylaxis of Crime.*—While it is not the purpose of the brief treatise presented in this volume to attempt to cover the vast field of social pathology embraced in an exhaustive study of the causes of crime—which is as broad as society itself and as deep as the foundations of human nature—it is necessary in this connection to indicate the

tremendous need of scientific research and public instruction essential to a sane and comprehensive system of crime prevention.

The Chinese have taught us that it is more economical to pay the physician to keep us well than it is to wait until the disease develops to a stage where it becomes necessary to employ the physician to restore us to health. In recent years we have learned that a diseased tonsil or tooth will soon undermine the health of the most vigorous constitution, and that it pays to remove the cause before the havoc is wrought. Boards of health in all of our states and cities are busy every day of the year eliminating the sources of infection and contagion. They conduct campaigns against the obnoxious fly and mosquito; keep our streets, alleys, backyards, and homes free from putrefying filth; quarantine contagious diseases; inoculate against smallpox, diphtheria and other contagions; conduct prophylactic inspection of school children; provide means to combat infant mortality; promote vital statistics, and institute many other preventive measures with the result that the death rate has been greatly reduced. A child born today has the prospect of fifteen more years of life than one born twenty-five years ago.

Many years ago when this country was covered with extensive swamps, there was a great prevalence of malaria. Physicians spent hundreds of thousands of dollars annually for quinine to combat the chills and ague, and to relieve the suffering caused by this dread disease, but not a dollar was spent to drain the bogs which were solely responsible for the pestilence. When, in the development of rural communities and farm activities the swamps were drained, malaria disappeared. Many millions are expended annually in the United States for the apprehension, conviction, and punishment of the criminal, but we are not yet alert to the tremendous necessity of making adequate sacrifices for

crime prevention. Corrective agencies are largely palliative. We have been applying salve to the sore. We have only placed screens upon the windows and doors to keep the disease-bearing fly out of our homes. It is necessary to go down into the plague spots—the breeding places—where the scourge germinates, if we would purge our land of the malignancy of crime. It would be infinitely better if the millions spent annually for the punishment of crime could be diverted to scientific measures to stop the poisonous fountain.

It would be far from the truth, however, to assert that there is no efficacy in the corrective process. Crime is present—a constant, unremitting, devastating fact. If disease is present it must be cured. We probably will always have the anti-social with us, regardless of the perfection of civilization. We must meet conditions as we find them. We must have prisons—but how much more fortunate if we did not need them. To abolish prisons, at present, as has been advocated by some self-styled criminologists, would be the pinnacle of folly; but in proportion as we stop the manufacture of criminals, the necessity for prisons will be eliminated. The only strategy left, therefore, will be to wage consistent and unremitting warfare on both wings of the enemy's ranks until we undermine his strength and send him down to defeat.

7. *Society Responsible for Crime.*—The origin of crime lies in the community. Society has persistently ignored this fact for many centuries. The main reason that greater progress has not been made in the elimination of crime is that the value of social introspection has been evaded. If the world, long ago, had taken a searching inward look to discover the hidden springs of disorder, much greater progress would be in evidence now. The entire burden of correction has always been shunted onto public officials and penal institutions. It has been the popular idea that crime

just happens, no one is responsible but the criminal himself; he should be punished severely; he is immoral and should be taught a lesson. We are beginning to learn today through bitter experience, that crime is an effect and that it must have a cause, in fact, many causes.

8. *Hereditary and Environmental Influences.*—For centuries, philosophers have descanted on the question, "Which is more potent in the formation of character, heredity or environment?" The question has never been satisfactorily answered. It is certain that there are many factors in each responsible for the malefic personality of the criminal which should be corrected if we would produce in future generations a race of stalwart law-respecting citizens. Biologists and anthropologists have for many years attempted to measure the influence of heredity in moulding the efficiency and behavior of posterity. Sociologists have made a persistent study of the influences of environment. Psychologists are now stressing the superlative importance of early training if we would avoid mental conflicts, repression and anti-social tendencies in later life. Crime is the product of the aggregate social surroundings during the formative and more receptive periods in the life of the child from both the hereditary and environmental viewpoints.

The person who handles multitudes of the anti-social classes is time after time brought face to face with the failure of society to produce one hundred per cent citizens. Many unfortunate characters are born with weak resistance and are forced to wage an unequal conflict with social disparities and temptations. Promiscuous marriages of the degenerate are bound to have a disastrous effect upon the conduct of the race. The father probably does not transmit criminal tendencies directly to his children, any more than he transmits tuberculosis, syphilis or alcoholism, but the presence of these diseases in the parent predisposes weak-

ness toward them, or, in other words, a lack of resistance to them. The seed is indigenous to the ground in which it grows, and decadent progeny becomes the most fertile soil for the growth of the same kind of seed. Moreover, extensive studies of degenerate families, such as the Jukes, the Kallikak, the Zero and others, disclose the fact that the weaknesses of the progeny were intensified by the baneful environment in which they were brought up. In other words, every family of degenerate Jukes were reared by inefficient, ignorant Jukes. The individual, already weak, is especially subject to the tone of his surroundings. If social conditions are degrading, he must be a strong character to rise above them; if they are helpful, there is a chance that he will be carried safely through danger.

In view of the above facts, the wise conclusion is that every phase of heredity and environmental influence likely in any way to contribute to anti-social conduct should be ascertained and given consistent, unremitting attention.

9. *Knowledge of Cause Not Sufficient.*—Many volumes have been written upon the causes of crime. They cover every phase of society and of heredity; but comparatively little public organization has been effected to eliminate them. Dr. Edwin H. Sutherland, who has contributed one of the most concise statements on the causation of crime, says:

"Our literature regarding the cause of crime is more or less interesting, but little of it is of value for purpose of control. The consideration of the cause of crime has been like a gesture or ceremony coming prior to procedure, but not influencing that procedure to a great extent. For this, theoretical sociology is undoubtedly in part, at least, responsible. Graduating as it did from the philosophy of history, it has been interested in classifying the universe into factors that may conceivably affect conduct in some way or other, at some time or other. Such an analysis has value, to

be sure, in securing an orientation and a general location of policies and in preventing the acceptance of unilateral explanations such as those of the economic determinists, and some of the eugenists and psychiatrists. But it renders no concrete assistance in the control of crime, analogous to the assistance that is rendered in plant breeding and animal breeding by the knowledge of the mechanism of heredity. Materials are just beginning to appear that give promise to the development in the near future of such a knowledge of causation as will be of direct assistance to the construction of scientific laws in the field of criminology."[1]

It is encouraging to note the growing interest in constructive and restrictive eugenics; scientific care of mentally weak and diseased children; the nation-wide recognition of the necessity of better home-life; more scientific school-training; development of constructive juvenile agencies; control of immigration; national efforts to restrict narcotics and alcoholic beverages; development of industrial justice; more general education in biology, sociology and psychology; research on child-life by various foundations; efforts to bring about universal peace among nations and the general awakening of public consciousness upon all matters pertaining to the highest development of the individual, home and national life, all of which will be of inestimable value in producing a higher order of citizenship; but they are only in their infancy. These agencies must be supported by the constant, combined, harmonious efforts of all good citizens. Crime prevention devolves upon every one alike, and every patriotic citizen has a definite part to play—the teacher, the clergyman, parent, scout leader, club member, journalist, musician, playwright, employer and employee, must each contribute his best thought and effort to stop the making of criminals.

10. *The Need of Accurate Statistics of Crime.*—One glar-

[1] *Criminology,* p. 72. J. B. Lippincott Co., Publishers.

ing demand, if we would be scientific in handling the crime problem, is the institution of an effective governmental system of securing statistical information as to the prevalence of crime, arrests, conviction, imprisonment, conditions conducive to crime and agencies for the prevention of crime. The United States Government through its Bureau of Population Statistics should secure and compile comprehensive data each year which would be of superlative value to sociological students in determining the effects of prophylactic and corrective measures. All statistics of the past have been so sporadic and incomplete as to be of little practical use. The enumeration of our prison population for one day in each decade does not furnish sufficient information. We can never meet the situation by working blindly in the dark knowing little of the efficiency or inefficiency of our expensive efforts. Our heterogeneous criminological agencies will never function properly until they are organized into an efficient, comprehensive, scientific system.

CHAPTER II

THE EVOLUTION OF HUMANE METHODS

1. *Vindictive Punishments of the Past.*—Criminal jurisprudence, beginning with the nameless tortures of early times, has passed through several evolutionary stages. Formerly many innocent men and women were punished for imaginary crimes such as witch-craft and sorcery; but fortunately these superstitions have passed away. The cruel ordeal, rack, wheel, strangulation, burning alive, boiling in oil, scourging with cat-o'-nine-tails, branding, mutilation, the pillory, galleys, flagellation, strappado, bastinado, impaling, incarceration in dungeons reeking with filth and creeping vermin, and many other nameless tortures of retaliation have been gradually replaced by merciful measures for the reformation of the criminal by the stimulation of right purposes and correct views of life. From the hysterical inhumanities, cruelties and revenge of retributory punishment to a more scientific knowledge of our problem, and reformative technique, helpfulness and good cheer, is a great transition.

As late as one hundred years ago, according to Blackstone, there were 160 offenses in the statutes of England punishable with the death penalty. For many centuries society proceeded upon the hypothesis that crime could be stopped by punishment, during which era offenses continued to increase at an alarming rate. Vindictive punishment was the keynote in the handling of the criminals. The severe and drastic enforcement of the Blue Laws, the diabolic treatment of criminals in early days on our western

frontiers, the blood-feuds of the South—the atavistic retaliation of family against family, mob violence in many communities, especially in the South, are familiar to every student of American history. These barbarisms are now comparatively extinct, thanks to the rapidly growing altruism of modern times. Savage-like atrocities in those days were practiced in the name of vindictive and deterrent punishment. The many ingenious devices invented for the torture of men and women accused of crime are now mere relics upon which we gaze in horror at "man's inhumanity to man."

2. *Crime and the Community.*—Crime in a community is analogous to an aching tooth. The diseased member elicits the attention of every other organ; the hand is on the swollen jaw; feet pace the floor; the mind is unable to give much attention to anything except the aching, throbbing member. The sufferer imagines that the tooth is the most prominent organ of the body. So does society suffer when a criminal is at large committing his dastardly depredations. No wonder then, that he is given so much publicity and that we are so much concerned until he is apprehended and the "pain" of his crime is abated. The question of paramount importance to society is how to eliminate the "aching tooth" commonly known as crime. Every member of society is affected by crime, whether it is near or remote. The people of Michigan are vitally concerned about the deplorable example of a serious offense committed in Louisiana or in California. The church, the school, the social worker, and the individual citizen are equally involved and no one can escape the fact that society must adopt the best means available for the prevention or the cure of the malady. The question that confronts us is "How shall we abolish it?" Old time dentists used to place a chisel against the aching tooth and strike it a sharp blow with a hammer, thus extirpating the cause of the pain. In recent years den-

tists administer a local anesthetic and extract the tooth with forceps in a semi-painless manner. Today they try to save the tooth if possible by drilling out the cavity, sterilizing it, filling it and making it serve the purpose of a new tooth. In like manner it was formerly thought that the best method to eradicate crime was to extirpate the criminal, thus eliminating him from society and avoiding future depredations. Today, the objective is to transform the character of the offender by filling him with higher aspiration, more wholesome thoughts, and better powers of adjustment.

3. *Remnants of Barbarism in the Recent Past.*—Since retaliation is an inherent trait of human nature which has been only partially eradicated from the race through the process of evolution, it is not surprising that base cruelties were practiced in the dark ages and that its concomitant impulses still influence the attitude of many circles even in this enlightened age. We must confess that we are still somewhat atavistic. In more modern times untold atrocities have been committed by unprincipled keepers, who by torturing their prisoners, covertly behind high walls and in dark recesses, have descended again to the level of brutes. In many prisons, reeking with vermin and rank with vice, men were often huddled together in unsanitary conditions conducive only to atrophy and decay. Corroding idleness, peonage, the base humility of stripes, the rule of silence, the shaven head, the lock step, cruel beating, and foul, unwholesome food, were travesties of justice which hardened prisoners to such an extent that there was little chance that they would ever become self-respecting citizens.

In those days wardens were appointed for the most part in exchange for political service and were subject to removal long before they were able—if perchance they should be so inclined—to become thoroughly acquainted with their exacting duties and qualified to perform them. There was a

popular demand that every prison should be made self-supporting by means of prison labor. The warden who could show the best profits at the end of the year, regardless of the baneful influence upon his men, was regarded as the most successful manager.

4. *Dawn of the Reformatory Age.*—Something more than fifty years ago a gleam of light began to penetrate the darkness. Colonel Montesinos of the prison at Valencia had many years before established his semi-reformatory regime with such good results upon the 1500 men under his care that printed reports of his system reached America. These reports fell into the hands of Dr. E. C. Wines, efficient Secretary of the New York Prison Association and leader of a small coterie of humane prison men who were beginning to catch the vision of better methods. The success of Obermaier, Governor of the prison at Kaiserlautern, in Bavaria, and the notable example of the Irish prison system inaugurated by Sir Walter Crofton, so much admired by philanthropists in England and America, also greatly influenced this early group of prison reformers.

5. *Rise of the American Prison Association.*—There have been numerous conferences of prison officials in America and in Europe since 1846 when the first International Congress for prison reform was held in Frankfort, with 196 delegates from not less than fourteen countries. The International Prison Congress now embraces many countries and since 1872 has been held every five years. There are, also, other national conferences in various countries, delegates from which go to make up the International Congress.

Under the leadership of Dr. Wines, Theodore Dwight, Ex-President Rutherford B. Hayes, F. B. Sanborn, and Zenos R. Brockway, now recognized as the father of the indeterminate sentence, a conference was held in the city of

Cincinnati in 1870. This little group finally developed into the American Prison Association, which organization now embraces representatives of many governmental and social agencies in the United States and contiguous countries engaged in the solution of the crime problem. The most propitious event in connection with the far seeing conference of 1870 was the adoption of the "Declaration of Principles." [1] This document, originally drafted by Dr. E. C. Wines, proved to be so full of wholesome wisdom that the American Prison Association, in session at New York in the year 1919, unanimously reaffirmed these principles as pertinent to modern criminology. In the following year, at the semi-centennial congress of that Association, at Columbus, Ohio, many elaborate discussions were presented upon the remarkable progress of American institutions and agencies during fifty years of development under the influence of this marvelous document. The preponderance of the Declaration of Principles is so broad and so promulgative of advanced methods that it is deemed important to present the entire text in this connection as a foundation upon which to build in future endeavors of prison administration and crime prevention.

6. *The Declaration of Principles Promulgated in 1870 and Re-affirmed by the American Prison Association in 1919.*

I. Crime is an intentional violation of duties imposed by law, which inflicts an injury upon others. Criminals are persons convicted of crime by competent courts. Punishment is suffering inflicted on the criminal for the wrongdoing done by him, with a special view to secure his reformation.

II. The treatment of criminals by society is for the protection of society. But since such treatment is directed to the criminal rather than to the crime, its great object should

[1] Proceedings of the American Prison Congress.

be his moral regeneration. Hence the supreme aim of prison discipline is the reformation of criminals, not the infliction of vindictive suffering.

III. The progressive classification of prisoners, based on character and worked on some well adjusted mark system, should be established in all prisons above the common jail.

IV. Since hope is a more potent agent than fear, it should be made an ever-present force in the minds of the prisoners, by a well devised and skillfully applied system of rewards for good conduct, industry and attention to learning. Rewards, more than punishments, are essential to every good prison system.

V. The prisoner's destiny should be placed, measurably, in his own hands; he must be put into circumstances where he will be able, through his own exertions, to continually better his own condition. A regulation of self-interest must be brought into play and made constantly operative.

VI. The two master forces opposed to the reform of the prison systems of our several states are political appointments and a consequent instability of administration. Until both are eliminated, the needed reforms are impossible.

VII. Special training, as well as high qualities of head and heart, is required to make a good prison or reformatory officer. Then, only, will the administration of public punishment become scientific, uniform and successful, when it is raised to the dignity of a profession, and men are specially trained for it, as they are for other pursuits.

VIII. Peremptory sentences ought to be replaced by those of indeterminate length. Sentences limited only by satisfactory proofs of reformation should be substituted for those measured by mere lapse of time.

IX. Of all reformatory agencies, religion is first in importance, because most potent in its action upon the human heart and life.

X. Education is the vital force in the reformation of

fallen men and women. Its tendency is to quicken the intellect, inspire self-respect, excite to higher aims and afford a healthful substitute for low and vicious amusements. Education is, therefore, a matter of primary importance in prisons, and should be carried to the utmost extent consistent with the other purposes of such institutions.

XI. In order to secure the reformation of imprisoned criminals, there must not only be a desire and intention to that end, but a serious conviction in the minds of the prison officers that they are capable of being reformed, since no man can heartily maintain a discipline at war with his inward beliefs; no man can earnestly strive to accomplish what in his heart he despairs of accomplishing.

XII. A system of prison discipline, to be truly reformative, must gain the good will of the convict. He is to be amended; but how is this possible with his mind in a state of hostility? No system can hope to succeed which does not secure this harmony of wills, so that the prisoner shall choose for himself what the officer chooses for him. But, to this end, the officer must really choose the good of the prisoner, and the prisoner must remain in his choice long enough for virtue to become a habit. This consent of wills is an essential condition of reformation.

XIII. The interest of society and the interest of the convicted criminal are really identical, and they should be made practically so. At present there is a combat between crime and laws. Each sets the other at defiance, and, as a rule, there is little kindly feeling and few friendly acts on either side. It would be otherwise if criminals, on conviction, instead of being cast off were rather made the objects of a generous parental care; that is, if they were trained to virtue and not merely sentenced to suffering.

XIV. The prisoner's self respect should be cultivated to the utmost, and every effort made to give back to him his manhood. There is no greater mistake in the whole com-

pass of penal discipline than its studied imposition of degradation as a part of punishment. Such imposition destroys every better impulse and aspiration. It crushes the weak, irritates the strong, and indisposes all to submission and reform. It is trampling where we ought to raise, and is therefore as unchristian in principle as it is unwise in policy.

XV. In prison administration, moral forces should be relied upon, with as little admixture of physical force as possible, and organized persuasion be made to take the place of coercive restraint, the object being to make upright and industrious freemen rather than orderly and obedient prisoners; moral training alone will make good citizens. To the latter of these ends, the living soul must be won; to the former only the inert and obedient body.

XVI. Industrial training should have both a higher development and a greater breadth than has heretofore been, or is now, commonly given to it in our prisons. Work is no less an auxiliary to virtue than it is a means of support. Steady, active, honorable labor is the basis of all reformatory discipline. It not only aids reformation, but is essential to it. It was a maxim with Howard, "make men diligent and they will be honest"—a maxim which this congress regards as eminently sound and practical.

XVII. While industrial labor in prisons is of the highest importance and utility to the convict, and by no means injurious to the laborer outside, we regard the contract system of prison labor, as now commonly practiced in our country, as prejudicial alike to discipline, finance, and the reformation of the prisoner, and sometimes injurious to the interests of free labor.

XVIII. The most valuable parts of the Irish prison system—the more strictly penal state of separate imprisonment, the reformatory stage of progressive classification, and the probationary stage of natural training—are believed to be

as applicable to one country as another—to the United States as to Ireland.

XIX. Prisons, as well as prisoners, should be classified or graded so that there shall be prisons for the untried, for the incorrigible and for other degrees of depraved character, as well as separate establishments for women and for criminals of the younger class.

XX. It is the judgment of the congress that repeated short sentences for minor criminals are worse than useless; that, in fact, they rather stimulate than repress transgression. Reformation is the work of time; and a benevolent regard to the good of the criminal himself, as well as to the protection of society, requires that his sentence be long enough for the reformatory processes to take effect.

XXI. Preventive institutions, such as truant homes, industrial schools, etc., for the reception and treatment of children not yet criminal, but in danger of becoming so, constitute the true field of promise in which to labor for the repression of crime.

XXII. More systematic and comprehensive methods should be adopted to save discharged prisoners, by providing them with work and encouraging them to redeem their character and regain their lost position in society. The state has not discharged its whole duty to the criminal when it has punished him, nor even when it has reformed him. Having raised him up, it has the further duty to aid in holding him up. And to this end it is desirable that state societies be formed, which shall co-operate with each other in this work.

XXIII. The successful prosecution of crime requires the combined action of capital and labor, just as other crafts do. There are two well defined classes engaged in criminal operation, who may be called the capitalists and the operatives. It is worthy of inquiry, whether a more effective

warfare may not be carried on against crime by striking at the capitalists as a class, than at the operatives one by one. Certainly, this double warfare should be vigorously pushed, since from it the best results, as regards repressive justice, may be reasonably hoped for.

XXIV. Since personal liberty is the rightful inheritance of every human being, it is the sentiment of this congress that the state which has deprived an innocent citizen of this right, and subjected him to penal restraint, should, on unquestionable proof of its mistake, make reasonable indemnification for such wrongful imprisonment.

XXV. Criminal lunacy is a question of vital interest to society and facts show that our laws regarding insanity, in its relation to crime, need revision in order to bring them to a more complete conformity to the demands of reason, justice and humanity; so that, when insanity is pleaded in bar of conviction, the investigation may be conducted with greater knowledge, dignity and fairness; criminal responsibility be more satisfactorily determined; the punishment of the sane criminal more sure, and the restraint of the insane be rendered at once more certain and more humane.

XXVI. While this congress would not shield the convicted criminal from the just responsibility of his misdeeds, it arraigns society itself as in no slight degree accountable for the invasion of its rights and the warfare upon its interests, practiced by the criminal classes. Does society take all the steps it easily might to change, or at least to improve, the circumstances in our social state that lead to crime; or when crime has been committed, to cure the proclivity to it generated by these circumstances? It cannot be pretended. Let society, then, lay the case earnestly to its conscience, and strive to mend in both particulars. Offenses, we are told by a high authority, must come; but a special woe is pronounced against those through whom

they come. Let us take heed that woe not fall upon our head.

XXVII. The exercise of executive clemency in the pardon of criminals is a practical question of grave importance and of great delicacy and difficulty. It is believed that the annual average of executive pardons from the prisons of the whole country reaches ten percent of their population. The effect of the too free use of the pardoning power is to detract from the certainty of punishment for crimes, and to divert the minds of prisoners from the means supplied for their improvement. Pardons should be issued for one or more of the following reasons, viz., to release the innocent, to correct mistakes made in imposing the sentence, to relieve such suffering from ill-health as requires release from imprisonment, and to facilitate or reward the real reformation of the prisoner. The exercise of this power should be by the executive, and should be guarded by careful examination as to the character of the prisoner and his conduct in prison. Furthermore, it is the opinion of this congress that governors of states should give to their respective legislatures the reasons, in each case, for their exercise of the pardoning powers.

XXVIII. The proper duration of imprisonment for a violation of the laws of society is one of the most perplexing questions of criminal jurisprudence. The present extraordinary inequality of sentences for the same or similar crimes is a source of constant irritation among prisoners, and the discipline of our prisons suffers in consequence. The evil is one for which some remedy should be devised.

XXIX. Prison statistics, gathered from a wide field and skillfully digested, are essential to an exhibition of the true character and working of our prison systems. The collection, collation and reduction to tabulated forms of such statistics can best be effected through a national prison discipline society, with competent committees in every state,

or by the establishment of a national prison bureau, similar to the recently instituted national bureau of education.

XXX. Prison architecture is a matter of grave importance. Prisons of every class should be substantial structures, affording gratification by their design and material to a pure taste, but not costly or highly ornate. We are of the opinion that those of moderate size are best, as regards both industrial and reformatory ends.

XXXI. The construction, organization and management of all prisons should be by the state, and they should form a graduated series of reformatory establishments, being arranged with a view to the industrial employment, intellectual education and moral training of the inmates.

XXXII. As a general rule, the maintenance of penal institutions, above the county jail, should be from the earnings of their inmates, and without cost to the state; nevertheless, the true standard of merit in their management is the rapidity and thoroughness of reformatory effect accomplished thereby.

XXXIII. A right application of the principles of sanitary science in the construction and arrangements of prisons is a point of vital importance. The apparatus for heating and ventilation should be the best that is known; sunlight, air and water should be afforded according to the abundance with which nature has provided them; the rations and the clothing should be plain but wholesome, comfortable, and in sufficient but not extravagant quantity; the bed-steads, bed and bedding, including sheets and pillow cases, not costly but decent, be kept clean, well aired and free from vermin; the hospital accommodations, medical stores and surgical instruments should be all that humanity requires and science can supply; and all needed means for personal cleanliness should be without stint.

XXXIV. The principle of the responsibility of parents for the full or partial support of their criminal children in

reformatory institutions has been extensively applied in Europe and its practical working has been attended with the best results. It is worthy of inquiry whether this principle may not be advantageously introduced into the management of our American reformatory institutions.

XXXV. It is our conviction that one of the most effective agencies in the repression of crime would be the enactment of laws by which the education of all the children of the state should be made obligatory. Better to force education upon the people than to force them into prison to suffer for crimes of which the neglect of education and consequent ignorance have been the occasion, if not the cause.

XXXVI. As a principle that crowns all, and is essential to all, it is our conviction that no prison system can be perfect, or even successful to the most desirable degree without some central authority to sit at the helm, guiding, controlling, unifying and vitalizing the whole. We ardently hope to see all the departments of our preventive, reformatory and penal institutions in each state moulded into one harmonious and effective system; its parts mutually answering to and supporting each other; and the whole animated by the same spirit, aiming at the same objects, and subject to the same control, yet without loss of the advantages of voluntary aid and effort, wherever they are attainable.

XXXVII. This congress is of the opinion that, both in the official administration of such a system and in the voluntary co-operation of citizens therein, the agency of women may be employed with excellent effect.

7. *Marks of Progress.*—Reviewing the accomplishments of the past half century, the following high points indicate the progress we have made toward a scientific attitude in solving the crime problem:—

a. The causation of crime has received increased attention with the purpose of preventing society from producing new criminals. Prophylactic measures are widely discussed

in every circle, many of which have been adopted in constructive legislation, better training of the young and by attempting to combat adverse social conditions responsible for crime.

b. Recognition of the necessity for individual treatment of criminals rather than en masse treatment has resulted in many improvements in our penal system.

c. The introduction of the indeterminate sentence in the statutes of many of our states has tended to render the individualization of treatment more effective.

d. The origin and development of the Juvenile Court, juvenile reformatories, probation and parole have had a tremendous influence upon public sentiment toward the humanizing of the law and court procedure for adults, as well as to save a great many children from criminal careers.

e. The Reformatory System which has been introduced into several states and the spirit of which has percolated into all of our prisons has greatly popularized the education of juvenile and adult offenders.

f. Parole and probation laws for first offenders, with improved machinery for handling incipient criminals without subjecting them to the demoralizing associations in prisons, have saved many young offenders from recidivism.

g. Psychiatric and psychological clinics in connection with some of our courts and prisons are revealing many mistakes of the past and are contributing to our knowledge of the individual criminal, thus rendering criminology more scientific.

Modern psychology in union with advanced sociology today offers the most hopeful opportunity to the young to become eminently useful in the new profession of criminology, with the mistakes of the past as a warning and the attainments of modern scientific research as an encouragement to real achievement. This is the day when men undertake and accomplish wonderful deeds. The march of civili-

zation has brought the highest attainments in art, science, industry, invention, and philanthropy, and the world is moving many times as fast as it did a hundred years ago. Unprecedented opportunities are open in the pathway of every aspiring young American because the past century has left us a limitless heritage. The future is bright for great achievements in the field of criminology.

CHAPTER III

PENOLOGY AND THE DAWNING SCIENCE

1. *Definition of Penology.*—The word "penology," commonly used to express the science of correcting offenders, is a misnomer, and we shall soon be obliged to coin another expression to convey the exact meaning of our profession. The word "penology," coined by Francis Leiber, is derived from the Greek terms «ποινὴ+λόγος» and means literally, "the science of punishment," which is an unfortunate idea to convey, when the profession in which we are engaged involves so many higher and nobler functions than the mere punishment of an individual who has violated the law. If we were administrating institutions similar to those of a century ago, when devices of torture were utilized with almost scientific ingenuity, we could refer more properly to ourselves as "penologists"; but when we attempt to describe modern reformatory methods and the scientific psychological and sociological methods now rapidly coming into vogue for the restoration of the criminal to normal thinking and living, we have no word sufficiently comprehensive to express it.

A. *Definition of Criminology.*—The word "criminology" is more nearly exact, but this term refers more particularly to the nature of crime and characteristics of the criminal. Webster defines "criminology" as "the scientific study of crime as a social phenomenon, or of criminals and mental traits, their habits, their discipline, etc." The Germans, who have given much thought to the subject, have coined the word "gefangesswesen"—which means, literally,

"imprisonment" but is commonly used to denote "the science of the treatment of prisoners," and which thought we attempt to convey in our use of the word "penology." Robinson says, "Following the German example, it has become customary to apply the term science to each and every field of human knowledge, no matter how little or how poorly organized it is. The mischievous effect of this is clear. Scientific conclusions become confused with what are mere surmises or guesses, and thus lose—through the process of leveling—the moral value which should be theirs as guiders to civilization. Science is too bold a word to use in defining penology. The use of this term presupposes a knowledge of the facts, a rigidity of analysis, and a soundness of deduction which does not exist as yet in this field of study."[1] One professor of sociology informed me that he commonly used the word "treatment" to express the present day idea, but he recognized the term as sadly inadequate.

Criminal jurisprudence, beginning with the nameless tortures of early times, has passed through several evolutionary stages and is now coming out into the clearer light of modern altruistic ideals. When the purification is complete, and the science is fully evolved, probably a new term will be found to express it.

2. *Popular Conceptions of Criminology.*—The public is swiftly awakening to the realization that the prison official has an infinitely broader mission to fill than the mere punishment of his prisoners. The police and the courts are beginning to entertain a faint hope that by some mysterious "alchemy" a reformative influence will result from the sentences imposed upon the convicts they send to prison; however, they still seem to regard retaliative elements as the most potent factors. Officials and communities sometimes entertain high motives for the reformation of the

[1] *Penology in the United States,* page 11.

criminal, but "in the back of their heads" there seems to be a grave doubt as to whether this will be accomplished. We are inclined to agree with them to some extent, because we have not yet really discovered the complete analysis of our job. Prisons have always been a hit or miss proposition. Misdemeanants and felons, of every crime and twist of mentality under the sun, are fed en-masse into the same "hopper," regardless of their needs. Multitudes return into free life to continue in crime, because blanket punishment is generally regarded as a universal panacea for every patient alike, and for this reason we have not yet discovered just how to go about our greatest task, namely: to diagnose the pathology of the individual and to apply individual treatment, if we would transform our profession into a real science.

3. *The Penology of a Few Years Ago.*—However, when we compare some old fashioned institutions of twenty years ago, with those of higher ideals of today, we can entertain some encouragement, at least, in that we have the prow of our ship directed toward the right point of the compass. One of these institutions, which I have always regarded as a sample of the worst, was manned by a political henchman, so imbued with vindictive venom that he never could see a good quality in any man incarcerated in his prison. They were all bad, and everything about their character was deplorable. The food provided by this warden was just about good enough slop for the hogs—little more. The bread, baked from the poorest, dirtiest flour that could be purchased, was as brown as ginger bread and was invariably stale and mildewed. The soup, devoid of much real food value, was thin and tasteless, often insipid, nauseant and sometimes contained cockroaches, flies or maggots. Meat of the poorest quality obtainable and very poorly cooked was served once a week. Molasses and bread were served every morning and evening. The molasses was the

dirtiest, sourest, blackest kind of thin "blackstrap." The "coffee" was brewed from scorched wheat and rye, with chicory added to impart the coffee flavor, and it seldom contained milk or sugar. Little care was given to the serving of the food. It was no uncommon sight to see a syphilitic prisoner handling the rations with bare hands. The clothing was made from goods with black and white stripes. The filthy, hard beds were alive with vermin. The walls of many cells were thickly spotted with blood of bed bugs where the men had mashed them during sleepless nights. Treatment in this prison was universally cruel. Working in the shops under the most brutal contract system, the men were given peak tasks and were severely punished if they were unable to perform them. Feeble-minded men and boys were unmercifully whipped on the bare back or cudgeled with clubs for failure to accomplish their allotted tasks. I have seen some men after their release from this prison, with welts and gashes on their backs so deep that you could lay your fingers in the furrows. The silent system was rigidly enforced at all times, and if a man inadvertently looked up from his work or spoke a word he was sometimes rapped on the head with a big brass key or club. Men were frequently handcuffed to the bars or tied up by their thumbs with their feet raised off the floor until they became entirely exhausted and fell into a faint when let down. The warden repeatedly informed me that "they were getting what was coming to them." I fear that there have been a few other wardens, in the more recent past, who have entertained similar views. However, such brutal practices are probably almost extinct today, and wardens, for the most part, are thoughtful, earnest students of human nature, desirous of conducting their institutions more in accord with modern humane principles.

4. *Results of Harsh Measures.*—Those cruel bastiles of yesterday, with artificial and repressive atmosphere engulf-

ing the inmates, stunting their faculties, destroying their initiative, making them machines incapable of conducting themselves independently, rendered them upon leaving more susceptible to evil influences than they were before their incarceration. Men were dressed in stripes unlike any other human beings in the world; were compelled to do irksome tasks in a semi-starved condition and took on a deathly pallor, because of close confinement in the dark and dingy cells. They retired and arose at the sound of a discordant gong and always maintained absolute silence, gradually becoming human automatons with more or less depleted initiative, and assumed a scowling, disconsolate bearing. If they were foolish enough to speak, unless addressed by an officer, they were severely punished. Their officers thought for them at all times—officers who were not capable of thinking for themselves—men made brutal by the unnatural authority vested in them and the system which they administered. The ultimate consequence of this body and soul wrecking system was that the convicts, instead of being reformed, were degraded, discouraged, and at the expiration of their sentence, they were returned to society weakened in manly courage and moral resistance, hardened with a stolid determination to wreak vengeance upon the state.

5. *Value of Sanitation and Health Measures.*—Awakened public sentiment reflected, through more humane leaders, has introduced a higher order of reformative influence. It is now universally recognized that sanitation in a penal institution is an absolute necessity for the preservation of health, as well as for the comfort of the prisoners. We now realize that vermin and flies, the carriers of infectious diseases, destroy morale and self respect, diminishing the value of therapeutic measures and reducing the prison to a bedlam. It is generally the pride of every warden to keep walls, floors and windows immaculately clean and the surroundings as homelike as possible. The food receives more

studied attention than formerly and nearly all prisons employ stewards to serve a balanced ration, containing proper food values in sufficient quantities for working men. It has been found to be almost as easy to furnish a varied menu and to serve food in an appetizing manner as it was in former times to serve beans, soup and black molasses, day in and day out, with little or no change. Food should be served by waiters clad in white for the purpose of sanitation and health as well as for the appearance of tidiness, and the dining room equipment should be kept immaculate. Whatever differences of opinion there may be as to the quality and character of the dishes and dining room equipment, all wardens agree as to the necessity of cleanliness and sanitation. Since we all recognize our supreme obligation to return our prisoners to the world with cleanly habits and improved health, we can, therefore, begin to claim we have made some progress.

6. *Impediments and Progress.*—Prison management today is in the process of transition, from the careless "go easy" method of least resistance, toward a more definite scientific goal. Wholesome examples established by medical hospitals, juvenile institutions, colonies for the feeble minded, and mental hospitals are having a constructive influence and the transition is certain, although slow. There are pathetically few prisons in the United States architecturally equipped for the new regime and few are consistently undertaking the real task that lies before them with any degree of finesse, but some have caught the vision. The public is yet in the throes of *laissez-faire,* trusting political matters to governmental officials and their appointees; but the public, too, has begun to catch a faint glimpse of the possibilities of more scientific treatment. Once in a while the public, through exposes by the press, has its attention called to fragmentary scandalous conditions prevailing in a presumably reputable institution, and spasmodically stirs up

an investigation; but after some desultory and temporary improvements are made the public settles back into its characteristic desuetude. But fortunately the most thoughtful people never get quite back into the same old rut; they have learned more about the value of real ideals. Popular demand for the highest and best is thus steadily growing more insistent. When some talented political prisoner undergoes a harrowing prison experience and writes a book or delivers a lecture, depicting deplorable conditions of the old style system as viewed from the standpoint of the prisoner, many well meaning people are stirred to the marrow and consistently set about seeking a solution. Such exposes are essential. The public must be aroused and informed; it must know the fundamentals of a better regime.

7. *Responsibility Not All on the Warden.*—We should not unduly criticize the wardens of the past. They were not solely to blame, but were in many instances earnest, enthusiastic men who tried to conduct their prisons in exact conformity with the prevailing sentiments held by society. When one of them became aroused to charitable motives by the innate humanity of his better manhood, sensing the distress of the unfortunates whose destiny hung upon the treatment, he was handicapped in his efforts by the unsanitary, impossible bastiles in which he was obliged to work. The public refused to construct more modern institutions, compelling him to administer the "punishment" prescribed by law.

8. *The Warden of Today.*—The average warden today is a humane, considerate man, deeply interested in his job, with multitudinous business and administrative tangles to straighten out, but often unmindful of the individual mental and physical pathology of his protegees. His hands are tied by the public demand that the per capita cost be cut to the limit, or that he make the institution pay all the expenses with a snug balance to be returned each year to the

public treasury. If he grows content with his position and gets into a rut, it is because the public is pleased to have it so. When a progressive warden adopts a new method, looking toward the physical, mental and moral advancement of his prisoners, a portion of the public, obsessed with vengeance, accuses him of "coddling." If he wishes to employ a psychiatrist, social workers, teachers and other scientific helpers, or if he needs to pay more adequate salaries so as to obtain more intelligent officers, he is informed that a part of his appropriation has been lopped off for retrenchment. There is enough of the vindictive animus still clinging to society to render it content for its prisoners to be treated just humanely enough that the public conscience will not be outraged; but comparatively few are sufficiently philanthropic to demand that our prisons be placed on an efficiency level with medical and mental hospitals. The public is not yet convinced that the criminal is often a really sick man, needing as much intelligent care and attention as the tubercular or the insane.

9. *Compared with the Progress of Medicine.*—Compare the strides medicine has made by introducing scientific methods. It is not necessary to diffuse upon the plagues that formerly swept over the world, and the ignorance of medicine in vainly combating them; nor the nameless cruelties perpetrated upon the sick and insane because of crass superstition. Communities now have modern hospitals with ample facilities for prophylaxis, diagnosis, prognosis, therapeutics, surgery, and with the most improved paraphernalia of every description at their disposal:—X-ray equipment, microscopes, stethoscopes, sterilizers, improved surgical instruments and countless other kinds of paraphernalia adequate for the most effective service. Consultant staffs of learned and skilled men in the medical profession provide training and inspiration for the hospital staff in every detail of modern theory and practice. The

profession is never selfish with its new discoveries. Medical magazines pass along every helpful discovery to the whole profession. Money is not lacking to adopt the most improved methods; and thorough, hearty co-operation is given to medicine by every agency and individual in society because physical pathology is more easily visualized than mental and moral infirmities.

In curing crime a few interested souls are assiduously endeavoring to do their bit, but without the assistance of outside experts, because experts are few and scattered. Lawyers and judges, for the most part, are still imbued with the old time penology. Their usual criticism is that the prisons are too easy, and do not carry out the mandates of the court to punish severely the men who have broken the law. Many private individuals who entertain grudges against the criminal, because of his depredations against their property or persons, insist that there is but one course to follow, namely, that the law breaker must be punished in keeping with his crime. The church is willing to assist in the religious services in the jails and prisons, but it regards "dipping into politics" as out of its province, and rests content to let the world move on.

10. *Custody and Public Safety.*—One of the foremost penologists a few years ago gave a young prison man the following advice: "When you address the public upon prison reform, always preface your remarks by saying that 'the first obligation of the warden is to hold in safe custody the men whom society has ostracized because of crime.'" Now, of course the word "warden" implies that meaning, but is that duty which we must regard as so important, primary, or is it merely incidental? Is the protection of society by locking the prisoner up for a few months or years the sole aim of incarceration or is there something even more important to be gained? There are four major objectives in the reformatory sentence, all of which are of

great importance: (1) temporary or permanent isolation for the protection of society; (2) the example to deter other potential criminals; (3) deterrent punishment applied to the individual who has been convicted, and (4) time and opportunity to change the character of the offender and to readjust him to society. Under the vindictive system the custody of the prisoner becomes the chief duty of the warden, but under the reformatory system, the warden holds him for the purpose of making him over into a good citizen—a safe person to be at large after he is reformed. Imagine the relatives of a typhoid patient instructing the resident physician of the hospital to see that the patient does not get out of the hospital for a specified time. While society must be protected by the isolation of a bad man, that period of isolation must be employed to cure him for the permanent protection thus afforded.

When our institutions have been revolutionized in such a manner as to make it our chief objective to diagnose and cure the malady and to segregate permanently from society those who cannot be cured, we will have discovered our real objective. As the medical hospitals apply scientific remedies to their patients, so will we seek the cure of our behavior patients. Instead of perfunctorily passing the morally and mentally sick through our "mills," regardless of the fact that they remain crippled, anti-social, and unacquainted with their real obligation to society, we also will try more intelligently to return larger numbers of them to free life with new motives, self-control and self-respect, adjusted to their proper sphere in society. Our present day neglect to regard offenders as individual patients, suffering with maladies as diverse as those treated by medical hospitals, is at the core of all the slip-shod ineffectual treatment.

11. *The Legal Classification of Prisoners.*—It has been the custom through the long, dark centuries of the past to classify prisoners according to the crime they have com-

mitted, as thieves, pickpockets, bank robbers, bunco men, murderers, rapists, etc.; and each class has been sentenced according to the offense rather than the pathology of the patient of which crime is only one symptom. We should not be understood as implying that every criminal is sick, although many of them really are sick, mentally or physically, and in dire need of therapeutic attention. Psychiatrists and criminologists, after many years of careful observation, have come to the conclusion that crime therapy is approaching a stage at which they can with some degree of accuracy prescribe treatment adapted to the pathology responsible for a large amount of crime.

12. *The Beginning of Scientific Classification.*—Many more years of persistent research will, of course, be necessary to evolve efficacious treatment for many abnormal conditions from which criminal behavior evolves. Such treatment will necessarily involve a thorough classification, including the most careful scientific diagnosis. Public recognition of this need is shown by the methods adopted by New York and New Jersey in establishing receiving prisons and the classification of prisoners based upon their needs. The New York plan is to consign all prisoners directly to a central receiving prison where they will be divided into five groups for separate treatment: (1) The normal prisoner who is capable of learning a trade. (2) The normal offender who is more or less advanced in years, who can be helped by agricultural employment. (3) The insane delinquent requiring treatment of a more or less permanent nature. (4) The mentally defective patient for whom special institutional treatment is needed. (5) The psychopath who will have attention suited to his individual needs.

This innovation is just one of the beginnings of scientific segregation, and points to future developments of a more elaborate system by which these five groups, after transfer

to separate prisons, will each be divided into smaller groups, so that each offender may have individual, intelligent attention. The sentence for a person who shows marked criminal personality should be extended without limits "until cured," whether the required time is a few months, a few years, or a life time. Dr. White, who has had charge of many persons escaping prison sentences through being adjudged "not criminally responsible," and who were sent to St. Elizabeth Hospital until cured, expressed the opinion that such sentences have often proved longer than definite sentences would have been if pronounced from the bench at the time of the trial. At any rate, when we thoroughly understand crime therapy, we will know that we are expected to cure the unfortunates who are placed in our custody, if there is a cure, and in case we cannot cure them, to take care of the residuum under various degrees of restraint sufficient to bolster up their weak personalities and so assist them to be as useful as possible in prison during the rest of their natural lives.

13. *Medicine Sets the Pace.*—We shall never be able to succeed at this important task until we are provided with thorough equipment, trained altruistic men, and a sympathizing public sentiment. At present we are conducting mere caricatures of the clinical hospitals we will have when we find our real function in crime therapy. But, let us not become discouraged. Our sluggish science is not so far behind medicine, after all, when we recall that no more remotely than the time of our grandfathers, bleeding was resorted to for almost every malady to which human flesh is heir. A comparatively short time ago bitter herbs and roots were administered to drive out evil spirits which were thought to be responsible for disease. In the time of our fathers, quinine and calomel were the chief specifics for most diseases. The crudest kind of unsterilized surgical instruments were employed, and a major operation was usually fatal. The phenomenal development of the medical

science has come about wholly within the past century. The medical profession is now able to determine accurately the many causes of disease; it has introduced public and personal prophylaxis; performs marvelous operations skillfully and successfully, and has succeeded in extending the average span of human life by many years.

14. *Crime Clinics Necessary.*—In this present enlightened era, there is a growing demand for similar progress in crime therapy and strenuous efforts are being inaugurated to render it a real science. We shall be obliged to establish more schools of criminology where many of the actual problems will be handled in the laboratory for research. We will establish additional crime clinics, discover remedies and gradually become equipped with more appropriate apparatus to enable us to do our work thoroughly.

15. *Foundations, Clinics and Periodicals.*—There are already several important periodicals in the field, such as "The Journal of the American Institute of Criminal Law and Criminology," "Mental Hygiene," "The Survey," "Journal of Abnormal and Social Psychology," "American Journal of Psychology," and various annual publications of national associations which are wholly or in part devoted to the crime problem, technically discussing individual cases and passing discoveries along for the benefit of the entire profession. We should not hesitate to meet any necessary expense for such aids and should offer every possible encouragement to skilled men and women who are being attracted to the profession. Several foundations of great promise have been established, such as the Russell Sage, the Rockefeller, and the Baker foundations, also the Joint Committee on Methods of Preventing Delinquency; all of which are contributing important findings secured through scientific research. The ultimate science when fully developed, will be real economy by correcting many delinquents, such as are today going out of our prisons uncorrected to prey upon the public, exacting lives, property and money in

figures many times greater than it will cost. With increased knowledge and skill, defective, psychoneurotic, psychotic, and borderline patients in our reformatories will then be treated for their real maladies. The extent to which such treatment can be made efficacious will be a determining factor. Our remedy today is the same for every disease, with the same results, as if the medical hospital administered the same remedy for pneumonia as for rheumatism —as if it medicated a patient for diphtheria when he really had tuberculosis, cancer of the stomach, endocarditis, or a broken leg.

16. *Notable Juvenile Clinics Established.*—Several laboratories connected with courts and prisons in three or four sections of the country have in recent years devoted considerable effort to determine causative factors. The most noteworthy instance is that of the Psychopathic Institute of the Juvenile Court of Chicago, the results of which analyses have been comprehensively set forth by Dr. Healy, former director, in his book, "The Individual Delinquent." He lucidly presents the findings of his far reaching analysis of 1000 juveniles, all repeated offenders. The cases studied were, from the standpoint of recidivism, a homogeneous group. The following general causative factors were found to be responsible for their criminality:

Mental abnormalities and peculiarities.
Defective home conditions, including alcoholism.
Mental conflict (vida infra).
Improper sex experiences and habits.
Bad companions.
Abnormal physical conditions, including excessive development.
Defects of heredity.
Defective or unsatisfied interests, including misuse or non-use of special abilities.
Defective early developmental conditions.
Mental shock.

Deliberate choice.
Sold by parent.
Use of stimulants or narcotics.
Experience under legal detention.
Educational defects extreme.[1]

Each of the above mental, environmental and hereditary groups are subdivided into numerous categories and each thoroughly analyzed and described. Individual case studies are presented clearly. As a sample of this study we present his psychological classification of the thousand cases [2] as follows:

17. *Statistics of Psychological Classification of 1000 Young Repeated Offenders.*

A.	Considerably above ordinary in ability and information, the latter estimated with reference to age and social advantages	31
B.	Ordinary in ability and information—the latter estimated with reference to age and social advantages	267
C.	Native ability fair and formal, educational advantages fair or good, but very poorly informed	69
D.	Native ability fair and formal, educational advantages fair or good	69
E.	Native ability good, but formal, educational advantages poor	22
F.	Native ability fair and formal, educational advantages poor	123
G.	Native ability poor and formal, educational advantages poor	40
H.	Native ability poor and formal, educational advantages good or fair	53
I.	Dull, perhaps from ascertained physical causes, including some cases of epilepsy	79
J.	Subnormal mentality—considerably more educability than the feeble-minded	81
K.	Moron	89
L.	Imbecile	8
M.	Psychosis	69
		1000"

[1] Page 130.
[2] *The Individual Delinquent*, p. 139.

18. *Dr. Healy's Summary of Two Individual Cases.*

Case 13.[1]
Boy, age 14.

"PHYSICAL CONDITION:
Teeth very crowded (earlier impaction).
Very nervous.
Deflected nasal septum—entire occlusion.
Phimosis in excess.
Poor development and nutrition.
HEREDITY: Father terribly alcoholic.
ANTENATAL: Mother much troubled.
MASTURBATION as a very young child.
SMOKING.
Stealing.
Assault with weapon.
Sex, with girls.

MENTALITY:
Ability fair."

Case 81.[2]
Girl, 20 years.

"MENTALITY: Epileptic psychosis at times.
HEREDITY: Insanity, epilepsy, migraine.
Mother mildly insane.
DEVELOPMENTAL: Antenatal conditions bad. Premature birth.
HOME CONDITIONS: Very poor oversight.
DELINQUENCIES:
Running away.
Stealing.
Forging.
False accusations.
Sex.

MENTALITY:
Epileptic variability and psychosis.

These cases selected at random give the barest suggestion of the thorough diagnosis and findings recorded in "The Individual Delinquent," which were doubtless of great value in the subsequent treatment. We have presented the above sadly inadequate reference to Dr. Healy's system of diagnosis to demonstrate that certain experts have begun to

[1] Page 225.
[2] Page 440.

study crime in a scientific manner. In Healy's book, "Mental Conflicts and Criminal Conduct," a number of cases are presented in a very thorough-going manner in which "repressed constellations" and other causative factors are shown to be responsible for anti-social behavior in a number of cases.

19. *Scattered Research Is Not Adequate.*—Our contention is that sporadic and unskilled research is not adequate for the solution of crime. As valuable as Dr. Healy's work has been, it has merely emphasized the necessity for more thorough research in connection with every institution where criminals are to receive treatment. There is not a function of the institution in discipline, employment, education, recreation, medicine, or parole, where the information thus secured is not of paramount importance, if we would do our work intelligently. Expensive? Yes, but indispensable. The psychological diagnosis will assist in discovering vocational aptitudes, in determining the progress to be expected in education, in providing an interpretation of personality for the guidance of the disciplinarian, indicating the time and degree of promotion, and describing the time of parole, the character of parole, and environment necessary for successful after-treatment.

20. *Inadequacy of Present Day Psychology.*—We will have to acknowledge that not every case of criminality may be accounted for in terms of present day psychology. There are many abnormal twists of personality with slightly defective mechanisms and many mental and moral aberrations not yet satisfactorily classified, but deserving of the most careful research. The entire field of criminal personality must be subjected to skilled and prolonged clinical study. Psychopathic personalities with apparently the same abnormality react differently. Some disciplinary problems do not disclose readily a sufficient degree of abnormality to be quickly allocated by the psychiatrist. They require the

most persistent observation. The disciplinarian of every prison meets with many cases of obstreperous conduct which gradually develops symptoms of abnormality, and the psychiatrist is then more able to explain the cause of the original offense for which the patient is serving his sentence. Epilepsy is often responsible for malicious behavior, yet for long periods of time the patient is apparently normal. There are marked variations in human conduct traceable to slight complexes causing mental conflicts which periodically find expression in peculiar or anti-social conduct. Thorndyke, in "Educational Psychology," says: "General moral defect commonly involves intellectual inferiority." If this statement be true we will find that our quest for crime causes will be largely in the mental field and many weaknesses not yet understood will be found capable of various degrees of cure.

21. *Problem of the Habitual Drunkard.*—What shall we do with the habitual drunkard who returns to the workhouse many times during a single year? Are his difficulties social or mental? Is he really a criminal or the victim of a mental conflict? Has he a subnormal mind, or is his recidivism due to his social contacts, a broken home, or unemployment? It is probable that a prophasis of such maladies will some day be determined which will make our present helpless, stumbling methods appear driveling. Why does the state or county pay out many thousands of dollars each year for the repeated arrest, conviction and custody of the inebriate, if his malady can be cured? Why not take him into custody once to cure him for all time? Why is it necessary to treat him repeatedly in an endless, meaningless succession? The time he spends in prison is, practically, the only time in his life when he is sober and in entire possession of his senses, and even then he has weaknesses that none of us understand. Can anything be done for him while he is undergoing this term of imprisonment? It is

certain that more scientific research should be made in his behalf.

22. *Problem of the Drug Addict.*—What is the correct diagnosis of a man who resorts to narcotic drugs? Why does he make repeated returns to prison with short sentences, gradually wasting away his life and strength until he finally gets an overdose of the drug or succumbs to nervous disorganization, emaciated in body, discouraged in spirit, suffering mental and physical agony, and passing into eternity, a victim of the stupidity of society in failing to understand his problem? Whose duty is it to discover the cause of his malady? Some physicians maintain that the habit is due to neurosis or psychopathic personality and that the use of drugs is merely a symptom of his real condition. The plumber can cover up a leaky pipe by burying it deep in the ground without correcting the leak. To cover it up does not stop the waste. To place a drug addict in prison for a definite length of time strikes only at the symptom. Whose duty is it to discover the remedy? Surely society will some time learn the solution in clinics where the most intimate contact with the patient is possible.

23. *Louis Pasteur Research in Physical Pathology.*—The current research of Dr. Healy in the Psychopathic Institute and the Baker Foundation, as well as other notable modern movements of like nature, in isolating the origin of crime impulses, is analogous to the study of Louis Pasteur, of Paris, in the field of pathology fifty years ago. The mental life being of a higher type than the physical, is more mysterious and much more difficult to understand. The development of "specifics" or "physic vaccines" for the restoration of the mental cases of criminology will naturally be somewhat slower than has been realized in the study of physical diseases. The various schools of psychology differ somewhat in their views of some of the mental ailments and consequently in methods for elimination

of abnormal behavior; and no school has yet demonstrated a method as clearly defined and as effective as was made possible by the contributions of Pasteur and his followers. The student of criminology will therefore be obliged to proceed carefully in the acceptance of any set theory, but should be open to instruction by capable research experts who doubtless will some day contribute workable laboratory methods. Visionary and Eutopian? So were the teachings of Pasteur a short half century ago.

24. *Present Day Prisons Not Equipped for Mental Cases.*—Some courts sift out the psychopathic, definitely insane, neurotic, defective and other mental cases, not sending them to prison. These individuals are handled in well equipped mental hospitals especially adapted to their treatment. There are few prisons in the United States properly equipped for psychiatric treatment of mental cases, and until they are so equipped such patients should never be sent to them. It is folly that pronounced cases of this kind should be compelled to mingle promiscuously with normal prisoners.

25. *New Jersey's New System of Classification.*—The state of New Jersey has begun to organize its institutions similarly to the New York plan for scientific classification and treatment. The objective of the New Jersey system is to determine the individual needs of the offender and to find facilities to supply those needs, whether they be disciplinary, psychological, medical, educational, industrial or social. To accomplish this end, Mr. Burdette G. Lewis, State Commissioner of Institutions and Agencies, backed by the State Board of Control of Institutions, has employed experts to classify persons committed to penal institutions of New Jersey according to their mental and physical conditions and committing them to the various institutions which supply treatment suited to their needs.

A. *Origin of System.*—A little more than six years ago,

soon after the organization of the central control of New Jersey institutions, the great need was recognized of a closer co-ordination of the correctional and charitable institutions of that state. It was decided that in order to become helpful to their protegees, and to stem the growing tide of institutional populations, it was necessary to discover the causes of criminality and to combat them at the source, as well as to improve criminals so as to render them safe to return to society.

B. *The Trenton Clinic.*—The state has organized a psychiatric clinic, at Trenton, which assists the various institutions in the classification and understanding of the individuals as to their abilities and disabilities from the standpoint of intelligence, personality, and behavior. The offender is segregated for a period of about sixty days, during which time he is given a physical examination, and educational study is made to determine his occupational history, vocational aptitudes, and educability. An investigation is made as to his social attitudes, standards, and responsibilities, and finally a biological and social study is made through which the family and personal history, criminal record, marital relations, and industrial history are employed to substantiate data obtained in the other parts of the diagnosis. It is plain to see how the various correctional departments, armed with such facts, can more intelligently map out the work assignments, segregation, and instruction of various kinds, and can appropriately measure the patient's improvement, determining when he has reached the point in his development when he can be safely returned to society on parole.

C. *Weekly Council on Cases.*—Weekly councils of the various departments are conducted for the discussion of cases, stimulating the professional attitude of the staff. This innovation is highly educational. Instead of the customary custodial point of view usually held by the officials of a

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penal institution, they have found a more hopeful outlook and a more unified service. All departments seek to adapt their methods to fit the needs of the patients. When a prisoner is recognized as a permanent custodial case, he is not retained in the correctional institution to impede the progress of other inmates, nor is he released on parole, but transferred to a special institution better adapted to the case for more permanent custody. Mr. William J. Ellis, who explains the New Jersey system in "The Prison World," March 15th, 1924, says: "This means that there is going forward a continuous audit of the composition of the institutional population in New Jersey. Superintendents and administrative staffs are provided with known facts as the basis of the direction of institutional training. Surely this analysis of the human material under the training in our state institutions is of equal importance to the analysis which every manufacturer makes of the raw materials which are used in industry. We analyze our coal; we exact certain standards of all purchases. We can neglect no longer the fundamental work of analyzing, understanding and individualizing the human composition of our great state industries."

26. *The Bedford Hills Clinic for Psychopathic Women.*—A notable example of scientific study of psychopathic women was conducted by Dr. Edith R. Spaulding at the Reformatory for Women, at Bedford Hills, New York, in a specially equipped, psychopathic hospital under the direction of the Laboratory of Social Hygiene. This laboratory was established in 1912 through the generosity of John D. Rockefeller, Jr. There were forty-four girls studied, who were victims of various abnormal mental conditions, with whom the persons conducting the study lived during the time of the experiment, September 1916 to July 1, 1918. Dr. Spaulding has written a lucid and comprehensive book upon the details of the study and treat-

ment given in each case, together with her conclusions as to the outcome of the treatment. In conclusion, Dr. Spaulding says: "The treatment and reconstruction of psychopathic delinquent women in a single concentrated group will probably remain one of the most difficult of human problems, since it includes for its solution therapeutic, educational, social, and disciplinary treatment in proportions which vary with the special needs of each case. The time has come, however, when the shifting of responsibility regarding the psychopathic delinquent should cease and everyone should take up his share of the burden which promises to be a heavy one for many years to come. For the solution of the problem will be attained only when everyone is willing to put a shoulder to the wheel and do his part. They are too varied and heterogeneous a group of individuals to be herded together and treated successfully. They represent too many situations: mental, educational and social, segregable and non-segregable. The line of demarcation of the group is too indistinct and the nature of its constituent parts too elastic for a single educational, social or legislative procedure. . . . The need is great for further study of psychopathic delinquents from every point of view, social, mental and physical, and the problem of their care and treatment in a single concentrated group is still unsolved. It is hoped that the experiment which has here been described in detail will be of help to others who are interested in the same field of human conduct." [1]

This point of view and method of procedure is certainly in the direction of Science, demonstrating beyond question the tremendous problem we have to solve, and blazing the way for every correctional institution where imprisonment has begun to mean more than mere custodial care.

[1] *An Experimental Study of Psychopathic Women,* pp. 132, 137 and 138.

CHAPTER IV

THE NEW PROFESSION

1. *The Political Appointee.*—The greatest handicap to progress in prison reform, in the past, can be expressed in one word—"Politics." A comparatively short time ago few wardens were appointed because of efficiency. They knew little or nothing about their job and took little pains to learn. They carried into their office the popular hatred for criminals and their policies were in keeping with their mental attitude. The inhumanities practiced by these impractical demagogues beggar all description. In most instances the happenings behind the foreboding walls were a closed book.

2. *The Public Unconcerned.*—In the preceding chapter we pointed out that few public spirited citizens took the time or pains in former days to bother their heads about the men behind these walls. Why should they? The criminal was a public enemy and should be given punishment commensurate with his crime. He should be shown by hard knocks that crime does not pay. To interfere with retributive measures was to be called "a maudlin sentimentalist" and was to gain the disfavor of the political party in power. For many years, the atrocious fee system has contributed to this selfish aggrandizement. The successful candidate usually held office just long enough to begin to understand something about his task when he was replaced by another untrained politician. For instance, it is said that Sing Sing has had thirty-six wardens during the past seventy-two years. If a penological student sought to become profes-

sional in his job there was little chance that he would be permitted to remain in office long enough to make practical application of his knowledge. To sit supinely by in stolid indifference to the Machiavellian politics which formerly manned our prisons to the destruction of thousands of helpless men and women, was as stupid and as culpable as the crass superstitions of bygone days when the sick and the inferior were thought to be possessed of devils and were treated with incantations, force and magic and the insane were put to death. The Throne of Justice might find some extenuation for rabid mysticism, witchcraft and ignorance, but there can be no excuse for vindictiveness which finds its expression in duplicity and cruelty.

3. *Marks of Progress.*—We are happy to say that there are many quarters today where the popular demand is increasing for humane treatment and persistent research in the newer methods of correction. Reformatories and farms are replacing the repressing animal cages. Psychiatrists and sociologists are more frequently employed, while an increasing number of educated men and women are finding their life work in this field. The press is giving larger space to the encouragement of humane prison management and some of the best universities maintain chairs on the science of criminology. Considering the depths from which we have emerged, we have made noteworthy progress.

4. *Qualifications of a Good Warden and Staff.*—Time now seems ripe for a profession of well trained college men and women who will enter the field of crime therapy with as much enthusiasm as commonly motivates the prospective physician or college professor, and who will find in the correctional field bright promise for their highest ideals and greatest usefulness. The student who shoulders the responsibilities of correcting criminals soon learns that a prison administrator must have as much versatility and mental acumen as any other professional man, that he must possess

good business judgment, be acquainted with the theory and practice of pedagogy, and understand the essential principles of medicine and psychiatry; that he should be swift to grasp the practical features of sanitation, prison architecture, mechanics, farming, canning, stock breeding, dairying, and various other arts to which his planful attention must often be directed; that he should have a generous amount of good common sense and have a workable knowledge of group psychology. He learns that he must become intimately acquainted with the objectives and activities of social welfare agencies and be heartily in sympathy with their functions. To round up his character and to enkindle patience and kindliness, he should be a man of faith in God and man; for if he would be able always to meet the many vexing problems he is called upon to handle and to assist his many protegees with their heavy burdens, he should have access to the Fountain of Grace at which he can always renew his courage, hope and good cheer. Too much stress cannot be placed upon the necessity for moral integrity and sterling character for the prison official. If the advice and dealings of the conservator do not ring true, the prisoner will be repelled and discouraged by the elements of sham and deceit, reacting after the same fashion as his exemplar.

A. *Character of the Prison Official.*—The prison official is a moral instructor, the oracle of justice, a teacher in ethics. The average prisoner has spent much of his life in an immoral atmosphere until his moral nature is a paradox and he cannot be relied upon at all times to think clearly and accurately upon ethical questions. He comes to the reformatory to be straightened out in his thinking. His attitude toward morals needs to be adjusted. Who is to do that? Every officer with whom he comes in contact, from the highest to the lowest, should wield a good influence upon him. His reformation will be no more enduring than the

wholesomeness of the moral atmosphere with which he is surrounded during this strategic period.

A garment is never cleaner than the water in which it is washed, and the moral integrity of the prisoner will be no purer than the character of the men who administer the moral precepts. Instead of prescribing restrictive measures to refractory individuals culminating in pain and humiliation, the emphasis should be placed upon raising the general morale of the larger groups, by humanitarian interests, ethical teaching, personal attention and the highest possible influence of precept and example. Mr. Boies says, "The one absolutely indispensable means for the reformation of criminals, more effective than all other instrumentalities, is the influence of the Christian character of the man who has the supreme command. He must himself be inspired with overflowing love and with desire for the salvation of the men committed to his charge, and must possess both God-given genius and acquired skill, which will win the confidence of all, and guide them with imperceptible, irresistible, possibly hypnotic power, along the way in which they should walk. The daily contact with a good man is a greater power than any sermon ever preached." [1]

B. *The Prison Official as a Gentleman.*—Dr. Hastings H. Hart in his address before the American Prison Association at Detroit, entitled "Penology, An Educational Problem," made the following summary: "The warden should be a gentleman. Colonel Richard P. Williams did not put it too strongly when he said, in reply to my questionnaire: 'The most necessary qualification for the superintendent of a prison is that he be first, above all things, a gentleman. By gentleman, I mean a well-bred man of education, refined in feelings and manner. In addition, he must be forceful, practical, and have had experience in handling men. He must be interested in his work

[1] *Science of Penology,* pp. 183-184.

for the work's sake . . . No man is fit for the position who is not interested, heart and soul, in his job, and who is not eager to qualify himself for it by every means in his power. The great prison superintendents and wardens of the United States like the Pillsburys, Brockway, Tuft, McClaughry, Garvin, Wolfer, and Scott, have been men of this sort.'" [1]

The above category of high qualifications would seem, on first thought, to be idealistic and possibly akin to the Biblical injunction: "Be ye therefore perfect, even as your Father which is in Heaven is perfect," and it may be that there are exceedingly few individuals engaged in reformatory endeavor who will measure up to the full requirements, but the necessity for men of this standard is none the less desirable if they wish to perform their task efficiently.

C. *Should Be a Trained Warden.*—It is unthinkable that an intelligent governor would be so stupid as to appoint a layman unacquainted with medicine, and with no previous career in medicine, to head a state department of public health. The people would not elect a layman, unacquainted with the law, to serve on the judicial bench.

Neither should any man be employed in the front ranks of criminology until he could show credentials as to his training in correctional work. It is as important a profession as the ministry, medicine, law, or public instruction; and who knows that it may not be more important, requiring a wider range of knowledge and greater necessity for specialization?

D. *High Standards of Preparation.*—When the day arrives that a state license shall be required to obtain a position in a correctional institution, and salaries shall be offered commensurate with the task, with the assurance that such aspirants cannot be crowded out by political henchmen, the standards of prison administration will

[1] *Proceedings of the American Prison Association,* 1922.

be correspondingly enhanced. While some of our best universities offer courses in sociology and criminology, a comparatively small proportion of their graduates find their life work in penal institutions. There are several reasons for this. We have not yet placed a sufficiently high standard upon the new profession, and have not yet given serious attention to its requirements. Many prison wardens give preference to older men on account of their maturer judgment rather than to the younger college graduate, and by the time the college graduate has become mature enough to fit the wardens' standards, he has found a more remunerative calling. However, those students who acquire a theoretical acquaintance with the ramifications of restorative criminology, will probably go out into the world and mould public sentiment toward an appreciation of the tremendous importance of scientific therapeutic methods. The writer has repeatedly attempted to secure graduates from classes in criminology to accept positions in prison work, but the commercial and professional world commonly offers so many more glowing promises for financial and professional advancement that these young people, for the most part, have been side-tracked before finishing their apprenticeship. Salaries have been too small in the lesser positions, and often the desirable wardenship was too far removed to be a sufficient incentive to them. As things have gone in the past there seemed to be no professional future for the younger generation.

It is encouraging to know that society is now beginning to recognize its mistake, and that many institutions in recent years have changed in attitude. One of the most noticeable features of the several reformatories recently studied, is the high tone of manly character possessed by the men who administer the correctional regime and the high type of service rendered.

E. *Training Schools for Subordinates.*—The profes-

sional perspective should not be limited to the higher officers. The deputy, disciplinarian, psychiatrist, physician, chaplain, dietitian, sanitarian, educational director, foremen, and lower officers should be held to the same high standard. Salaries are at present too small and high incentives correspondingly negligible. In our best institutions, there are many opportunities for gradual advancement to the highest offices. Every employer can offer some assurance to his staff that efficient service will be rewarded; that the faithful, hard-working, studious employee will be promoted to the highest position he is capable of filling. Training schools for officers are now coming into vogue. Some reformatories and prisons are beginning to conduct classes for the instruction of officers. Forums and case-study conferences are held in some institutions, libraries upon criminology, penology, psychology, and kindred subjects are maintained, and courses of reading are outlined. Questions of discipline, teaching, sanitation, dietary, and general policies are discussed. These classes are sometimes conducted for heads of departments, and sometimes for all of the officers of every grade.

F. *University Can Assist in Training Experts.*—Time is now ripe for college instruction on the technique of prison management, using the prisons as laboratories for research and apprenticeship. G. Stanley Hall once said:[1] "As universities go, so the country will go a generation later." Graduate students will find a fertile field for thesis material in any large penal institution; and what field of study is in greater need of scientific research? There is no more important demand in all the realms of human knowledge. It is encouraging to note that some social service agencies are beginning to act as clearing houses for college graduates who have received special training along various lines of social service. Prisons should be quick to avail themselves

[1] *Life and Confessions of a Psychologist*, p. 342.

of every opportunity to secure trained men and women as apprentices. Encouragement to the college student thus equipped and directed toward his life calling will save a great many prospective prison administrators from being sidetracked into commercial lines, and will raise proportionately the standard of efficiency in prison management. This method is now employed in the study of psychology and medicine; criminology is next in line. These students would be welcomed by any broad-minded warden on his force of employees; interns, if you please, drawing a salary, helping with the management, developing the science.

G. *Loyalty and Morale of the Staff Encouraged.*—It is essential that a good *esprit de corps* be maintained among the officers. There has been too much independent action, too much jealousy and criticism on the part of the average prison staff to make for the highest type of organization. There is too often a low standard of intelligence held by the foremen of departments; yet there are many people of very high intellectual and moral standards willing to sacrifice position and remuneration because of their humane interest. Such people should be encouraged to the fullest extent, and used to bring up the standard of efficiency in the less capable employees. Occasional social parties, banquets, and recreational functions will engender loyalty, cooperation and mutual benefit to the entire staff. There are so many depressing, exasperating experiences in the complex routine of the average prison, that the faithful workers need an occasional period of relaxation, social uplift, and encouragement which such recreational occasions will provide. A mutual feeling of interest and understanding is necessary to a harmonious, effective organization.

H. *Personal Influence of the Warden upon the Staff.*—Generally speaking,—like warden, like staff. This is especially true when the warden has directed the institution long enough to impress his methods and force of character

upon his subordinates. If the warden uses profanity to the higher officers, they in turn use profane language in addressing their subordinates, and they follow suit in speaking to the prisoners. This gives license to the prisoners to address one another and even officers in the same indecent manner. As a result the prison becomes a bedlam, a school of profanity. So often in the past the ordinary prison guard, not able to express imperative orders in an emphatic manner without resorting to profanity, has exploited his tragic weakness with the effect of humiliating the prisoner and fostering traits detrimental to his reformation.

5. *The Resident Physician.*—The prison physician has been a fixture in penal institutions for many years, which fact has assuaged the public into the belief that physical ailments were reduced to a minimum. In some cases medical men have held positions as wardens and superintendents. The death rate was usually kept down to a minimum, the work assignment was directed according to the physical ability of the men, contagions were kept out, and the general health of the prisoners was conserved. Nevertheless, there has been a vast improvement in health measures in prisons during the past twenty years. Much thought has been given to the medical side of penal treatment as a part of the metamorphosis from the purely punitive to the restorative phase of prison policy.

A. *Example of an Old Time Clinic.*—The following incident illustrates the perfunctory attitude of the physician of twenty years ago: One bright winter morning I stepped briskly out of the keen frosty air of the street into the warm corridor of a large prison, and while rubbing my chilled hands and ears, watched a long line of men passing, one by one. A sprightly old gentleman with notebook in hand occasionally made a brief entry, and in a loud tone of voice gave peremptory orders as the line filed slowly by. He

would shout a few quick words and call out, "Next! Step lively, now. We're in a hurry!" It was the sick line, and the prison physician was the officer of the day, or rather of the hour, for the sick call, carried on in such a rapid manner, lasted but a few minutes. He would perfunctorily examine a man, pass on to the next, and on to the end of the line. Then he would hurry out to his private practice. Four or five favored prisoners were his attendants, each of whom held a bottle or box from which they hastily issued some mixture, pills, or cough drops, indicated by their number in accord with the physician's orders.

"Now, boy, step lively! What's the matter with you? Let's see your tongue. Bowels regular? Pain in stomach? All right, give him pills number three. Two before each meal."

"Hey, Jack! What are you doing here again? Didn't I tell you I'd give you castor oil if you came in the line again? Here, boy, give him a big dose of number six. I guess that'll keep you out of the sick line. Move on, you're stopping the mourners."

"Next! All right, what's your trouble? Lame back? Hurt to stoop? Want to get out of shoveling, eh? Need some salts. Give him a big dose of number two!"

"Step up next! Have the sore throat? Stick out your tongue! Just a little inflamed! Give him a gargle. Move on! Number eleven! Remember now, that's to gargle, not to drink."

"Move on! Come ahead! You're next! A cough? Let's hear you cough. Bowels regular? Give him some cough syrup."

"Here, boy, there's nothing the matter with you. Just want to get out of work, eh? Well, you'll get some good, bitter medicine. Number ten for you!" etc., etc., on down the line, until the sixty or more men had all passed, and then to me:

"Not a durn thing the matter with them! All malingering! Ought to have something to make them sick. I have some nasty mixtures for them, and they don't care to get in line again."

I visited the "hospital" which was in an old tower, dark and gloomy, with scant ventilation and accommodating several filthy, vermin infested cots. They were full of men who had gone beyond the sick line, and were helplessly awaiting their fate at the hands of the "versatile" prison physician.

B. *The Modern Medical Department.*—The modern prison hospital is quite different from the above picture. It has its individual wards and its general wards with each bed immaculately white and clean. The rooms are bright and cheery with good ventilation and equipped with running water for bath and toilets. Clinical charts, with records up to the minute, are kept by careful attendants. The dispensary is systematically arranged and supplied with every facility and necessary specific for the treatment of any physical malady to which a prison population is subject. The operating room is neat and thoroughly equipped for almost any kind of operation. Nurses are in attendance who are as well trained as those employed by any hospital. The dietary kitchen is equipped to prepare rations planned and balanced in keeping with the requirements of the cases handled. The medical clinic is commensurate with the best methods of prognosis and therapeutics found in any modern hospital.

C. *Correction Largely a Medical Problem.*—The physician, who is especially trained in diseases common to prisoners, is employed on full time and has the advantage of a consultant staff. It is hoped that our medical schools in the near future will see the necessity of assigning interns to prison hospitals for young physicians who are looking toward research and practice in the field of crime causation.

Our profession has so changed that criminologists now recognize crime to a certain extent as a medical problem, demanding the most scientific skill obtainable if it be handled properly. It is no field for the novitiate. Physical pathology is more responsible for crime than society has yet been willing to admit. While not commonly the direct cause of crime, physical disease and physical handicaps are often contributory. Practically everybody today understands the depressing effects of adenoids and their contribution to juvenile delinquency. Inasmuch as physical abnormalities, such as defects of the ductless glands, conditions arising from malnutrition, syphilis, gonorrhea, tuberculosis, and other physical disease must be taken into account by the psychiatrist, the medical doctor will be the specialist necessary to eliminate them before the mental treatment may become effective. It is thought that some criminals are influenced in their anti-social attitude by diseased tonsils, defective teeth, and other physical ailments. The daily reports of prison physicians are full of minor operations, such as tonsilectomy, operations for rupture, hemorrhoids, hernia, and many other such diseases producing physical handicap. The unnatural functioning of any organ of the human body reacts unfavorably upon psychic processes, and in case of emotional instability the patient may need that influence, only, to turn the whole drift of his thought into immoral channels. Such mental diseases as epilepsy and mental abnormalities due to accidents, hysteria, alcoholism, narcotic psychosis, etc., often require temporary hospitalization and the careful attention of the physician.

D. *Personality of the Physician.*—The ideal prison physician is a gentleman of high quality, patient, intelligent, industrious, and of good common sense. He should be thoroughly trained, not easily susceptible to trickery, intrigue or flattery, and should have a professional, scientific and altruistic interest in the physical and mental wel-

fare of the patients. He makes frequent inspections of every department of the prison to assure proper sanitary conditions, ventilation, dietary and general health measures. He discovers and records the health requisites of all the inmates through systematic examinations. It is a wholesome practice for him to address the body of prisoners periodically as to the care of their bodies and the consequent preservation of their health, pointing out the dangers of venereal diseases, the dangers of contagion, the results of the neglect of various organs of the body, such as the eye, ear, nose and throat. He should be the oracle in matters of health for the entire institution.

6 *The Dentist.*—A few years ago there was no effort put forth by any penal institution for the care of the teeth of prisoners. The inmate who spent a long period of years in prison was so completely neglected that he developed pyrrhoea, scurvy, decayed or ulcerated teeth, with no prophylactic attention whatsoever, except that the medical doctor would occasionally extract teeth that were causing too much pain, regardless of the wisdom of such action, and with no subsequent treatment. Many a man thus neglected through a long period of confinement has been released with a hopeless set of teeth or none at all with the consequent ill health, which condition might have been avoided with comparatively little expense, if handled at the proper time.

Today, every institution which is making any consistent effort to keep up with the times, employs a dentist at least half time and maintains a suitable clinic in which he performs his work. When expensive work is necessary, the prisoner is permitted to purchase the gold or other material out of his earnings or personal funds and the dentist performs the work with no other outlay on the part of the inmate. The dentist periodically inspects the teeth of all the inmates and recommends attention wherever necessary, giv-

ing instruction as to the care of the teeth, issuing tooth brushes, dentrifice and other needed supplies. If we desire to be humane and helpful to the man who is struggling to prepare for future success, we should not neglect to prevent the nervous and emotional unrest brought about by defective teeth.

7. *Eye, Ear, Nose and Throat Specialist.*—The same arguments can be produced for the care of eye, ear, throat and nose, as indicated above for the care of the teeth, and they are equally important. Few general medical practitioners today are qualified to specialize upon the diseases of these organs. The specialist in this department should spend as much time in the institution as the defects require. Cases of eye strain, astigmatism, adenoids, mastoiditis and many other diseases of these organs contribute a large quota of disciplinary problems, the causes of which have not been recognized until a few years ago. If our prisons would keep pace with prophylactic measures now generally employed by our public schools and the average health department we should be more alert to attend to these defects in the men and women entrusted to our custody for physical, mental and moral improvement.

8. *The Psychiatrist.*—Institutional heads today are catching the vision that their task is not only a physical but a mental problem; that they are dealing with a class of individuals, whose troubles are often the direct result of defective or diseased mentality, their cure sometimes depending to a large extent upon the success of mental treatment administered.

In a previous chapter we discussed briefly the great necessity of doing this part of our work in a scientific manner, yet in nearly all the institutions there is just enough money appropriated to feed, clothe and work the population, but none to treat it. We care for disciplinary matters in a more or less perfunctory manner, but continue to spread

salve on the sore, regardless of the constitutional source of the outward symptom.

A skilled psychiatrist is of such tremendous assistance to every department that I do not understand how we have ever done without him. He should know the individual mental life of each prisoner and keep careful records of the population. His analysis should be the determining factor in disciplinary measures, mental treatment, vocational guidance, segregation and determination of sentence. The result of this diagnosis should have much to do with every measure employed for rehabilitation. He should make a vocational examination of every inmate and direct the schools in supplying the training adapted to the character of work the individual should engage in after release. The day will come when the psychiatrist will be regarded as a necessity, instead of a luxury which cannot be afforded. One hopeful sign is that the prophylactic movement backed by the Bureau of Social Hygiene and other similar organizations is doing much research work in prisons, courts and juvenile institutions, as well as in institutions for the feeble minded, for the insane, and in the general community. Through clinics established in penal institutions, such as the Elmira Reformatory, Sing Sing, Bedford Hills, Western Pennsylvania Penitentiary, Indiana Reformatory, and others, the utility of psychiatric work is being demonstrated. The National Conference of Social Workers has endorsed the work of the National Committee of Mental Hygiene. Some universities provide professors and students for this work in isolated institutions. All of these agencies will gradually work out methods of treatment, and demonstrate the need of professional psychiatrists in every correctional institution.

9. *The Social Worker.*—The prisoner is a member of society, temporarily isolated. Modern institutions are increasingly discovering the relations of the prisoner to the

outside world. Society is affected by the prisoner in custody as well as it is by an individual who is free. Each prisoner has his outside contacts and in many cases, dependents who are more or less influenced by him. The prisoner will some time go back into free life and he must be prepared to fit into a wholesome environment. The environment must be ready to receive him and not be a menace to him. The family must be kept intact during his absence from it. A welfare department is essential to analyze the social needs of the individual and the needs of his family, supplying these needs to the greatest possible extent.

A. *An Assistance to Individualization of Treatment.* —Some institutions conduct various welfare activities, but the majority very few. Possibly no prison management has worked out very carefully what a scientific welfare program for a prison should be, nor knows the maximum of results to be obtained from such a system. One reason we do not have adequate correctional treatment today is that none of us has a definite conception of what a perfect system should be. We conduct many forms of activities designed to help the inmates in some way or other, but we do not check up to see whether the moral stimulus handed out in bulk is assimilated where it is most needed. If we provide inspirational lectures and religious and educational activities we assume that we have done all that can be expected of us. If the man is not reformed by the things we have provided, it is not our fault; we have done our best; "may his soul rest in peace."

How shall a man know that his individual case is thoroughly understood by the prison management? How shall we best combat the idea that some men get special consideration because they have a "drag" with the officials? How can we check up the work of a man so as to know whether or not he has done the amount and quality of work that is creditable for one of his capacity? These problems have

been worked out on the outside and the man who does not deliver a proper return for his time on a certain task is summarily discharged, but we cannot discharge the prison workman until his sentence has expired. We do not get the best results because we have not yet decided what results to expect, and have not organized our system to cope with the individual character of the offender who is in course of treatment. We have a very hazy idea of exactly what a standard correctional system should be; what factors it should embrace; and how it should be applied to each individual case. Until we determine what it is we are trying to accomplish by the miscellaneous activities, naturally we will not get very far.

B. *Case Record Analysis.*—The biological history of a patient is indispensable in determining the causes of his delinquency, necessary influence and environment and his proper niche in which he will fit after parole. Most institutions have more or less complete case study blanks on which such data, as the prisoner will disclose, is recorded by a perfunctory clerk whose only interest is to fill the cards with some kind of information, regardless of its truth or falsity. The sociological worker goes deep into the life of the individual and checks up his early environment, discerning many causative factors in his early life; parentage, education, associates, employment and relations to the herd which are responsible for his social attitude, and which measured in the light of his mental analysis help to untangle the complexity of his behavior.

Some penitentiaries and reformatories are studiously trying to develop workable programs which will bring tangible results, striving to get at the heart of the matter by the biological and sociological study of the individual prisoner in an earnest effort to supply in his life those things which will awaken him to a conception of his social responsibilities.

C. *Relief of Dependents.*—For the accomplishment of this purpose at least one institution, namely the Detroit House of Correction, employs welfare officers who spend their entire time in matters of a social nature, pertaining to the prisoners and their families. Prisoners receive small wages for their work, and their indigent families are assisted while the bread winner is absent. Without proper direction many families thus aided by gratuities or by the earnings of the prisoners would squander the money. Dependents who receive money from prisoners often spend it foolishly. In some cases it is found that no money should be paid to the relatives who are fully able but making no effort to support themselves. This makes obvious the need of trained social workers to exercise supervision over all funds paid to the dependents.

The following report from an investigator of this Welfare Department is an example of "case work" recommending relief:

"Superintendent:

"Dear Sir:—

Re: S——— M———

Lyula	36
Milava	30
Mike	9
Sam	6
Rada	1

"This case was referred by you on April 22nd. Inasmuch as the family is living outside of the City of Detroit, we are referring the results of our investigation to you for action.

"On April 16th, man was arrested for carrying concealed weapons and sentenced on April 21st to the House of Correction for ninety days. The investigator was of the opinion that man was only technically guilty of the offense with which charged and if possible an effort should be made

for his release. Considerable time was expended by him in trying to find a friend by the name of Sam S., who would probably pay the man's fine if approached; however, he was unsuccessful in locating him. For the last seven months the man has not had steady work, but has been able through odd jobs to get sufficient money for food. The house is sparingly furnished and the children are at present in need of clothing. In the meantime the woman has been receiving money from neighbors with which to purchase food for the family.

"We would recommend that relief be extended by the House of Correction, and the following is an estimate of their present requirements:

Food	$22.80
Clothing	19.25
Household Sup.	5.98
Light	.87
Extras	3.00
Total	$51.90

"We would suggest that relief for the first month amount to about $60.00 to enable the family to purchase clothing for the children, and for the following two months relief can be reduced to $45.00 per month."

The commissioners of the House of Correction followed the recommendations of this report and warranted the payments. The family was kept together until the man's release. Two of the children were kept in school, the wife was permitted to take care of the home, and society lost but little by the man's imprisonment.

D. *Helps the Morale.*—The Social Service Department supervising the family welfare has a great effect upon the morals of the prisoners. Efforts on part of the officials to see that the proper social agencies, such as hospitals,

schools for the blind, deaf and dumb institutions, etc., are caring for the dependents of the prisoners are very much appreciated and are to the prisoner a strong proof of the good intentions of the management. As long as a man is worried over the fate of his dependents, he is in no state of mind to yield himself to any kind of reformative activities. Close co-operation with all governmental departments and private social agencies for family rehabilitation is very essential. In many deserving cases of family alienation which occur so often when the husband is sent to prison, the officials have a favorable opportunity to work for family reconciliation.

Welfare work in an institution will produce more helpful results if the men are contented; if they perform their tasks in a trustworthy manner; if they feel they are getting a square deal from the management; if discipline is good and production is kept on the increase. Everything depends upon the attitude of the men. Knowing this, the Welfare Department should keep a close check to determine the effect of its efforts on the morale of the institution and be ready to vary its program accordingly. The Welfare Department should censor all expenditures from the prisoners' personal funds or earnings with a view of conserving as much of it as possible until the time of their discharge, and to make sure that expenditures really contribute to their welfare. It should strive to protect prisoners from sharp practices on the part of persons who would defraud them.

10. *The Chaplain.*—Another professional worker is the chaplain. His work is becoming more useful and intelligent as the years go by. There have been many high grade chaplains in the past who have done splendid work, but much of their time was consumed by clerical duties not closely allied to their real professional functions so that their influence was very scattered.

A. *Value of Religious Service for Prisoners.*—Religion

in a penal institution is invaluable. The services from Sunday to Sunday have a telling effect upon the morale and upon the permanent character of the men. Any person who conducts a religious service in prison is strongly impressed with the response he receives. The prisoners seem to hang upon his words and join lustily in the singing. It is often remarked that the most receptive and most responsive audience in the world is one composed of prisoners. There are several reasons for this. The congregational singing furnishes an opportunity for self-expression—an outlet for pent-up emotions accumulated throughout the week of depression—and the songs provide one of the few opportunities in prison for team work. The most charitable interpretation of their response is that repentant men who are sober and thoughtful, are earnestly seeking a panacea for their sinful inclination, and eagerly grasp any proffered escape from a life of crime. Many of the men in penal institutions are sincere and earnest in their acceptance of a Christian life, while others employ their religious profession to gain personal favor and to build up a reputation for being good fellows. The same criticism may be made, however, against some church goers on the outside, but this fact does not in any way diminish the obligation of Christian workers to supply religious services to the people.

All admit that there is no class of people, heathen or civilized, who need religious instruction and inspiration any more than the men in our penal institutions. The buoyant hopes, worship, spirit of fellowship and unity, messages of ethical teaching and the personal expression of resolutions to do better, are certain to react favorably upon the character of any man.

B. *Services Should Be of Highest Quality.*—There are occasional religious fanatics in almost every large city, who are extremely indiscreet in the teachings they present to prisoners. They play upon the emotions of the inmates,

informing them that the authorities are treating them unjustly, and that the judges and many other apparently respectable free citizens should be in prison to imbibe a fellow feeling for the prisoner, speaking disparagingly of the endeavors of the keepers, and often upsetting the actual welfare work that is being done. Such iconoclasts should be barred from the chapel and only discreet teachers should be permitted to take part in the services.

C. *Culture in Music.*—The choirs of the religious department should have the most careful musical training possible. There is an opportunity here to develop some splendid voices, cultivate team work, stimulate music appreciation, and build character.

D. *Sectarianism Discouraged.*—It must be remembered that in a prison population all religious denominations are represented—Protestant, Catholic, Jewish. Early training is deep seated and religious prejudice is operative regardless of the sins and inconsistencies indulged in subsequent to the time such training was acquired.

There should be no dogmatic quibbling and antagonizing of other religions, but a universal gospel preached which is acceptable to all. The various faiths should have opportunity to hear the representatives of their own persuasion as often as is practical. During the strategic and plastic experience of prison life no effort should be made to wean the prisoner from the tenets of his early faith. The wise chaplain will, rather, employ those remnants of early teachings, the memories of songs learned at mother's knee and in Sunday school, the catechism and ritual, as foundation stones upon which to build new character.

E. *Character and Ability of the Chaplain.*—An ideal chaplain will be a man of faith; faith in God as the Father of mankind; faith in himself, believing that he can constructively influence the members of his flock; faith in human nature, and believing in the possibilities of the refor-

mation of men. He will be a spiritual man, imbued with the spirit of Christ and love to man, a very humane man, who understands human nature and is conscious of his weaknesses and is therefore able to make due allowance for the failure of others. He should be a student of the Bible and able to interpret it understandingly; a man who can lead men to love to read the Word of God. He should be a psychologist, not necessarily a scientific psychologist, but one who has common sense knowledge of the workings of a prisoner's mind. Some chaplains have very little understanding of how the prisoner thinks, or how he feels. They cannot put themselves in the prisoner's place. The spiritual advisor should have a wide knowledge of human experience and therefore should not be too young.

F. *Versatility of the Chaplain.*—The chaplain should, of course, be an interesting speaker, able to make the truth understandable by men of simple minds, yet able to talk to them in man fashion. His interpretation of the Christian life should be analytical, poignant and impressive. He should be interested in the welfare of each individual under his care, giving careful attention to the most trivial details of the prisoner's crying need. He should be a welfare worker and should seek to reunite broken homes, to obtain employment for a discharged prisoner and to keep in touch with him in after years as a friend and brother. He should not be afraid of spending too much time in the case of a single man to which his Christian office may be directed. He should be interested in the athletics, games, music, and dramatic presentations, encouraging the men in constructive team work and development. If, in an emergency, baseball teams require an umpire, he should be able and willing to officiate and be the logical person to select, because of his fairness, knowledge and interest in the game. As to the educational portion of the work, a good chaplain will be interested in the school as a whole and in the advance-

ment of each pupil and should be willing to give his assistance to the most backward pupil, offering as much help as instructor, if necessary, as he gives to his preaching.

He should not refrain from writing a letter for any homesick, illiterate boy, whose confidence might be thus secured and welded to his religious influence. He should make his religious services as bright and cheery, and his instruction as interesting and hopeful as it is possible to make them, training his choir, selecting its music and praising its efforts. The senseless, old-fashioned system which, for purpose of economy, compelled the chaplain to spend most of his time censoring the mail and in a sense participating in the discipline, has robbed many a chaplain of his usefulness and destroyed his opportunity for constructive work.

11. *The Administrative Board.*—The complexion of a prison is also largely reflected from its administrative board which is usually composed of public spirited citizens appointed by the governor and usually serving without pay. The governing board exists for the purpose of determining policies and seeing that they are put into practice. The details of organization are administered by the superintendent or the warden. There are several kinds of governing bodies. Nearly all the states maintain boards of trustees, directors, or inspectors. In others there is a single paid commissioner or superintendent who engineers all the prisons of the commonwealth. The latter method, which is proving to be a splendid plan of organization, tends to unify and correlate the functions of all the institutions into an organic whole.

A. *Departments of Welfare.*—In Pennsylvania, the Department of Welfare has supervisory powers over all of the penal, reformatory, eleemosynary, and semi-state institutions, hospitals for the insane, institutions for the

feeble-minded, epileptics, inebriates, juvenile delinquents, and all charitable institutions supported in whole or in part by the state. All of these institutions, however, are controlled directly by separate boards of trustees, inspectors, or managers. Representatives of the Department of Welfare are charged with the duty of visiting and inspecting all state, semi-state and supervised institutions, to examine their methods of instruction, discipline, detention, treatment of inmates, the official conduct of the managers and officers, the care and use of buildings, grounds and equipment for the purpose of supervising the general welfare of all the inmates. This department also has the power to establish industries and conduct the labor of prisoners. Under the direction of the Department of Welfare the industrial products are manufactured and sold. The prisoners employed in the shops, and maintenance activities are remunerated according to the provisions of the law. The Department of Welfare is in a position to increase very materially the efficiency of the institutions, to unify the industries, to encourage educational advantages, and to classify the prisoners of the state.

Some other states have accomplished the same kind of constructive reform under the advice and greater or less supervision of State Departments of Charities and Correction. Indiana is a noteworthy example. Under the able leadership of Amos Butler, for many years the Secretary of that Department, Indiana has persistently avoided the handicaps of political sophistry, and has maintained a lofty position among the most progressive states in the correction of criminals.

B. *State Superintendents.*—Some states unite all prisons in a general scheme under the direction of a state superintendent who has more specific authority than the Department of Welfare just mentioned. He is responsible for the entire administration of the various institutions, selecting

the wardens, acquainting the governor and the legislature with the needs and conduct of the prisons, and uniting the entire penal system into a comprehensive organic whole. Such men as Joseph H. Scott and William F. Rattigan of New York, Burdette G. Lewis of New Jersey, Col. C. B. Adams, Sanford Bates of Massachusetts, and W. F. Feagin of Alabama, are examples of state superintendents who have been highly proficient in this kind of service.

C. *Organization and Functions of Managing Boards.* —Many abuses in prison management have occurred because of the inefficiency of governing boards. The institution is not likely to advance faster than the ideals entertained by its board of managers. Cases are on record of some wardens who, because of political pull, have practically selected their own boards, disposing of them if they became antagonistic to the warden's selfish ambitions. Some of these boards are composed of men and women who know little about prison management, and have too many outside interests to acquaint themselves with their real responsibilities. Because they do not take a professional interest in the management, such boards usually awake to find their institution in disgrace. In general, however, governing boards are earnest, interested and practical people who strive diligently to do everything in their power to enhance the reformation and general interests of the prisoners. Some of them are willing to expend much of their personal time which could be used profitably in their businesses. Boards so constituted are capable of contributing profound business methods and social principles to the advancement of the profession. If the warden advances along erratic lines the board can set him right; if he fails to progress they can spur him up; if he is found to lack initiative or is of unsound character he can be replaced; but if he is a man of staunch and impeccable character, impelled by high motives and directed by good judgment, the

board can encourage him by giving him the greatest possible latitude and backing.

D. *Details of Management the Duty of the Warden.*—No governing board can succeed which spends its time haggling over details. If the warden cannot be trusted with the details, he is not the man for the position. The criterion for the board is "Does the institution function properly? Is it advancing? Does it accomplish the purpose for which it was intended?" How this ideal can be realized by the manipulation of details, cannot be the chief concern of the governing board. Petty differences between officers, inner conflicts, matters of minor discipline and personal demands of the prisoners are too intricate, requiring so much personal time and involving so many complications that none except those who are most intimately in touch with the problem can handle them without causing disruption and grief. If the warden has not built up a system capable of handling all details, and has signally failed to perfect a thoroughgoing organization, but does not have the ability to relieve the board of these petty duties, it will be manifested by constant failures throughout the institution. When the governing board undertakes to handle all the details of business and departmental administration, it is sure to complicate the correlation of departments and make it difficult for the warden to carry out the general policies. The difficulties of the board will, by such pettifoggery, be increased in geometric progression and their efforts to carry out a sound and scientific policy will be nullified.

E. *Petty Criticisms Tabooed.*—There are some governing boards which spend much time listening to the complaints of individual inmates, particularly concerning officers. We have known some of these ill-advised persons to circulate among the subordinate officers and prisoners inquiring for scandalous tales about the officials to haggle

about in the board meeting. No self-respecting warden will stand for the disorganization thus fostered, and such an institution is doomed to hopeless failure—the half-baked meddling of these individuals is responsible.

This does not imply that the directors should not be acquainted with details, nor that they should not be interested in them, insofar as they tend to mould general policies and efficiency of management. The warden should always be ready to report frankly all his dealings with the prisoners, together with his failures and successes in administering the various policies and also to answer clearly and conscientiously any questions in which his board is interested, always remembering that the ultimate authority and responsibility for the conduct of an institution rests in the board of directors and that he is their agent and representative.

F. *Policies Well Defined.*—In their meetings a successful board will not jump lightly from the consideration of one policy to another nor one set of details to another, except as they have a vital bearing upon the point at issue, until they have reached a definite conclusion. After sufficient and careful deliberation, a definite opinion of the board should be determined upon and an accurate record of their decision made for future guidance. The warden has thus a definite basis upon which he can work.

A superficial discussion of several policies simultaneously with little or no connection, with a consequent waste of time in discussing details, and no definite action taken, creates a maze of different opinions with no well defined policies. These heterogeneous opinions are likely to be confused in the memory of individual directors as the policies which were adopted.

G. *Backing the Warden.*—Governing boards cannot be expected to be scientific criminologists, with the small opportunity they have for training. And, with rare excep-

tions, they are not. The governing board may be able not only to contribute constructive, scientific service and business guidance, but it may also be a strong rampart to stand between the warden and public criticism; but if we assume that the board has used good judgment in the selection of an efficient and humane warden who is imbued with good business principles and lofty purposes, no occasion for criticism is likely to be encountered.

CHAPTER V

THE TRANSITION OF PRISON ARCHITECTURE

1. *Architecture an Index of Theory Held by the Founder.*—An obstacle, almost insurmountable, to the modern warden is the lack of appropriate tools with which to work. Our tools are antiquated and worn out—I refer to the prison structures handed down to us from the more retaliative era of penology.

The character and arrangement of a prison is much more important than the general public, on first thought, is likely to concede. The popular conception of a prison is a "safe place" in which to incarcerate obstreperous characters for their isolation, humiliation and punishment. Society must, by all means, be protected and the buildings must be accordingly secure. Judging from our heritage of secure, high walled bastiles predominating throughout the country, we must recognize the fact that the architecture of a prison is a fairly accurate index of the theory entertained by the designer as to the kind of treatment a criminal should receive at the hands of society. The barbarous penology of a century ago was especially productive of the bastile type, consisting of foreboding walls, small dark cells and strong iron bars. In those early days every prisoner was supposed to be a desperate character, unmanageable, incapable of reformation, and accordingly worthy of little humane consideration. The cells in which he was kept were therefore as restrictive and depressive as the prevailing sentiment entertained for his incarceration. The popular belief of past generations, and prevailing in some circles today,

that the criminal is analogous to a ferocious beast, savage and untamable, and of an entirely different cast from other men, could have no other result than to influence the entire prison regimen. The teachings of such sincere and honest criminologists as Havelock Ellis, Lombroso and their followers, pointed out many physical stigmata in the criminal indicative of the savage character of his personality. Lombroso especially spread far and wide the theory that the criminal is of a different biological order from other men and that he comes into the world marked by physical, functional and skeleton anomalies distinguishing him from normal men, and peculiar to the criminal type. While it is true that individualization of diagnosis and treatment received its initial impetus from this theory, it was such doctrines as this from which evolved the time worn expression "once a criminal, always a criminal." Hence the popular demand for animal cages.

2. *Influence of Early Prison Reformers.*—Thanks to the new school of criminologists and psychologists, light is beginning to dawn, evolving a more hopeful attitude toward the criminal and a consequent change in methods for his custody and treatment.

John Howard, the renowned English prison reformer, Elizabeth Fry, Captain Maconochie, Governor of Norfolk Island, and Sir Walter Crofton, who won renown in the establishment of the "Irish System," were among the first altruists who created sentiment for more humane principles, the influence of which has produced a remarkably salutary effect upon prison architecture. Those noble pioneers have been emulated by hundreds of prison reformers, many of whom have been members of the American Prison Association. That organization has given specific attention to prison architecture, and for several years sponsored the American Association of Prison Architecture, which organization was composed of some of the best architects

in America, who united their efforts to co-ordinate the art of prison designing into harmony with the findings of modern criminology.

3. *Modern Conception of Housing Prisoners.*—The crime therapist of today proceeds upon the hypothesis that imprisonment should partake of the nature of hospitalization for the purpose of restoring the criminal to normal physical, psychical, and moral health. On account of this growing sentiment, a complete transformation of prison designs has evolved from the type of yesterday to the saner type of today, due to the metamorphosis of fundamental objectives. The general public is convinced that the old method of holding the convict constantly behind high walls and strong bars is degenerating, and that the most salubrious treatment is to provide moral stimuli such as he would receive in home surroundings, while he is undergoing the treatment. If he is to become a normal citizen, it is necessary for him to develop obedience and respect for the law in a natural community environment, with the elimination of as much of the stimuli to evil as is possible. If his criminal disposition is due to degenerative environment, by what sinister logic can we argue that he will be rendered normal by means of a sordid, repressive environment while he is being treated?

4. *Influence of Normal Environment.*—The impression on the mind of the inmate, resulting from the general appearance of the inside of an institution has much to do with his thought during that formative period of treatment and that appearance should certainly provide more incentives to normal thinking than the average institution presents today. If it is desired that a prisoner live in a home, in future years, he should be trained to enjoy living in a home—not estranged from domesticity by the sinister influence of unnatural institutional surroundings. To this end there has been a tendency toward the cottage plan of

American architects within the past half century, largely because of its superior security and its economy of manipulation. High banks of cells behind substantial arrays of strong chilled-steel bars and pretentious outside walls are familiar exhibits in our old-fashioned prisons all over the land. The clanking of iron against iron, the tramping of feet upon steel or concrete balconies extending along the fronts of the cells, with the frequent discordant clang of gongs are the unnatural noises to which the ears of the prisoners become familiar through long days and nights of nightmare imprisonment. In early days, silence was required among the prisoners and no communication permitted. Recently this barbarism has waned, however; but wardens are still obliged to use this antiquated style of architecture—their only resource—to carry out modern methods.

7. *A Notable Example of Modern Architecture.*—Perhaps the most unique prison in actual use today is the Westchester County Penitentiary and Workhouse at White Plains, New York, designed by Architect Alfred Hopkins. Mr. Hopkins distinguishes it from other institutions as follows:—"The Westchester County Penitentiary is a simple form of the type of a plan whose various parts are brought together by the use of the connecting corridor to provide indoor circulation throughout the group. This system of design is well known in connection with other types of building, but seems to be new to prison architecture. Indeed, such an arrangement would have only been tolerated in the present attitude toward the offender. Modern penology demands, first of all, adequate possibilities for segregation and classification. These are of vital importance in the administration of the modern penal institution, and cannot be properly had in the huge cell block. To achieve this classification and segregation, the connecting corridor offers the greatest possibilities.

"In designing Westchester the dominant idea was to accomplish three things: First, to create an institution which would look as little like the conventional jail as possible; second, to give each inmate the privacy of a separate compartment; and third, to build a county jail that, while giving much more in appearance and accommodation than the old type, should not exceed it in cost."[1]

The scheme of housing in smaller units provides greater possibilities of segregation, greater flexibility and more normal environment than the old time prison. There are, in the above scheme, four cell blocks of three floors each, all with outside cells, having outside windows, housing twenty-seven men on each floor and eighty-one to each cell block. There is a corridor extending between the two tiers of cells sixteen feet wide and a long corridor for recreational purposes, at right angles to the short corridors, which is used for leisure time activities during the rest periods.

This modern penitentiary includes adequate hospital quarters, sanitary shower baths, barber shop, school buildings containing four rooms with accommodations for thirty pupils in each room, mess hall, kitchen, bakery, auditorium, and various other necessary facilities worked out in a very thoughtful manner for the welfare of the prisoners. The plan yields itself readily to the newer methods, providing for the inmates a semi-homelike atmosphere.

8. *The Circular Cell Block of Illinois.*—A peculiar experiment is in course of trial near Joliet, by the State of Illinois, in the construction of multiple tiers of cell blocks in a circular building. The cells extend around the circumference of the building and each cell has an outside window. The bars resemble window sash, glazed with reinforced glass. The inside bars are also glazed in the same manner. The dome of the circular building is largely of

[1] Alfred Hopkins in *Plans and Illustrations of Prisons and Reformatories.* Compiled by H. H. Hart, D.D.

glass, which furnishes an abundance of light and air to every cell. All of the cells are watched and controlled by a single officer stationed in the center of each cell-house. The purpose of this arrangement is the security of prisoners, abundance of light and air and the economy of maintenance; but the normalcy of influence has been largely sacrificed. No one, anywhere else on earth, would be expected to live in this kind of building. The first impression the visitor gets upon entrance into one of these circular structures is the uncanny abnormality of its circular lines. It is the last word in prison architecture in the light of the prevailing sentiment for security, but not in harmony with the highest ideals of modern penology.

9. *The Army Barracks Type of Housing.*—Several states and municipalities have adopted the method of housing prisoners in frame structures, not unlike army barracks, using the dormitory system for sleeping quarters, without locks or bars. In these camps security is sacrificed to honor, and this system doubtless provides better facilities for the rehabilitation of certain classes of offenders than any other plan devised to date. It seems to be the consensus of opinion that the community life thus provided is beneficial to the mind and body of the average trustworthy or short time prisoner. There are just enough restrictions in such a system to impress upon the mind of the convict that he is a prisoner, and enough freedom of action to secure his co-operation for his reformation. The same can be said in regard to certain long time prisoners to whom the appeal of honor can be made for this kind of a trust, the multiform advantages of which will be discussed in another chapter. We cannot escape the admission that there is a distinct psychological appeal in home-like honor camps which is sadly lacking in all ironclad institutions; especially when we remember that the average prisoner is a human being who possesses much the same feelings, hopes and

aspirations as the rest of us, even though his moral nature is somewhat warped.

10. *The Lorton Plan of Housing.*—The Federal Reformatory, located at Lorton, Virginia, is now constructing a series of unique, one-story brick buildings which have attracted world-wide attention and are generally conceded to be admirably adapted to the correction of trustworthy groups of prisoners. All the buildings face a large central square. For the most part the men are housed in dormitories. Other buildings comprise dining hall, store rooms, work-shops, garages, and other utility buildings with a sufficient number of spacious cells for the security of obstreperous prisoners. There will be no outside wall around the grounds, but a maximum degree of freedom will be accorded on the same general plan as the army barracks type of prison.

11. *Diversity of Security by Grades in the Same Prison.*—The ideal plan for an institution for adults, judged from the rather meager sum total of penological experience to date, would consist of the stronger type of prison for the most desperate types of characters, with other less secure buildings grading from the most secure confinement to the greatest possible freedom, employing the more homelike type, such as is found in the Westchester Plan down to the prison barracks type and as nearly like free community life as possible. A combination of the various kinds of housing would provide a versatility of segregation most advantageous to the warden who divides his patients into groups under the advice of his psychiatric, medical and disciplinary departments. The advancement of the prisoner from the strictest custody to a position of trust would depend upon his co-operation and attainments. Just preceding parole the prisoner would reach a state of comparative freedom preparatory to the greater freedom of parole. It is desirable that the location of such prison be a large, fertile

farm sufficiently removed from the city population to be free from its smoke, impure air, curious and meddlesome crowds, and future encroachment of the city as the urban population increases.

12. *Separate Rooms vs. the Dormitory Type.*—There has been much discussion as to the utility of the dormitory type of housing. Advocates of the dormitory plan maintain that this system provides adequate facilities for guarding the men and that it cultivates a community spirit conducive to good fellowship and comradeship, but in actual experience there are many objections to the dormitory plan of housing. The dormitory affords no privacy and seldom a place for the individual to keep his personal belongings, except in a crude box or under the pillow or mattress of his bed; he is forced to promiscuous, contaminating companionship with others at all times, day and night, whether he desires it or not. The dormitory is conducive to various evils such as obscene conversation, homosexuality, criminal suggestion and other evils which we desire to eliminate from the prison atmosphere. The individual compartment provides a retreat into which the individual may withdraw at frequent intervals for privacy. He is not obliged to disrobe before a large group of men; he can read, or write, or think without having his thoughts disturbed by a heterogeneous group who impose their unwelcome presence upon him; he can have his writing desk, paper, pen and ink, collection of papers and books, kept safely from the curious or malicious, for his private use at will. The plan also provides, at least, a suggestion of home life.

13. *Architecture for the Encouragement of Clinical Research.*—Every possible aid to research should be afforded. We have attempted to point out that reformation is still in the research era. We have scarcely been able, in the past, to direct our treatment upon the exact pathology in the personality of the anti-social character with the assur-

ance that restoration can be secured by the elimination of the weakness. The solution lies largely in our opportunity for research. Reformation is approaching a professional objective which will assuredly suggest improved types of prison construction more in harmony with the actual needs of the patient. Ample provision, therefore, should be afforded for prognosis and therapeutics. Adequate space and paraphernalia should be provided for proper classification, clinics, observation wards, hospital treatment and scientific analysis. Psychological, sociological, and medical records should be assembled in a central place contiguous to the departments of discipline, education and social service. The headquarters of the morale officer and his assistants should be convenient to the officials who have to do with diagnosis, for the purpose of inter-reference.

A. *Provision for Records.*—The administration building should contain an identification bureau, offices of administrative officials, accountant, and custodian of records, with vaults for the safe-keeping of all important documents, and valuable property belonging to prisoners. Every accessory relating to the personnel of the prison population should center in the administration building, such as the records of work, deportment, improvement, and social contacts, visits, and letter writing.

B. *Centralization of Personal Accessories.*—A department for receiving and discharging prisoners should be maintained in the administration building, easily accessible to the shower baths and storage of the laundry and clothing.

C. *Convenience and Sanitation.*—The kitchen, dining room, and entire dietary department should be centrally located so as to be of easy access to the administration building as well as to all housing quarters. All buildings should be grouped and arranged in such relation that the living quarters may have the health giving qualities of full sun exposure. The entire prison must be so located as to

insure proper drainage, good water supply and thorough ventilation. Window area should be adequate to provide an abundance of light and air. The walls, ceilings and floor surfaces should be of a hard non-absorbent material with corner angles rounded, and be as nearly fire proof and vermin proof as possible.

D. *Size of Rooms.*—The size of living rooms or cells has been widely discussed. Hospital regulations usually require about 1,000 cubic feet of air for each compartment; however, it would be next to impossible to find a cell in any prison containing that much space. That amount of cubical space for each person is generally regarded as too expensive and unnecessary. Some prisons, recently constructed, have cells 8 x 10 x 10 feet, others 7 x 9 x 9 feet. Automatic and fool-proof plumbing fixtures with modern sanitary appliances for toilets and stationary wash basins should be included in the equipment of each cell. The baths in a penal institution should always be of the shower variety, with hot and cold water blenders, over sanitary, well drained floors.

D. *Industrial Buildings of a Modern Type.*—Inasmuch as it is essential that every institution must provide various kinds of productive employment for its inmates, the factory becomes an important unit in the architecture. If all of the inmates can be employed on the farm, during the summer months, it will be necessary to afford a variety of wholesome, constructive and instructive work for them during the winter. This necessitates various kinds of industrial buildings. The factory structures should be fire-proof, thoroughly lighted and ventilated, with sanitary wash rooms and toilets provided, having a reasonable amount of privacy, with a minimum of crevices for the accumulation of filth, and the machinery should all be equipped with approved safety devices.

F. *Security and Trust.*—The first essential of a prison, in the past, has always been absolute security. We admit

that the safe-keeping of the prisoners is an obligation of the warden. He derives his title from that function. But it is now generally conceded that high walls are not necessary for the whole population. High walls are relics of an ancient prison psychology. There will always be a need of security for certain types of incorrigible offenders, but the heinousness of the crime committed is no index to trustworthiness. Wardens have discovered that the major offender can often be trusted farther and depended upon to a greater extent for real co-operative service than the short time vagrant convicted of a minor offense. Decision, therefore, as to the necessity of walls, is of the greatest importance.

G. *The Influence of High Walls.*—A high wall around the perimeter of a prison is a constant challenge for the prisoner to vault it. The higher the wall the greater the challenge; but the conspicuous absence of a wall stimulates a higher response to the confidence reposed in him. A subtle appeal is made to the highest qualities of manly integrity when the men are not restricted by apparently insurmountable barriers. The average prisoner realizes that he has much to gain by being faithful to every trust reposed in him. His chief ambition is to prove that he is worthy of the confidence of his keepers to the end that he may have their recommendation for parole or clemency. This is a stimulus to self-respect which tends to develop a healthy accord with organized society and results in a re-shaping of character. Men cannot be successfully reformed by any other appeal. The practice of placing men in human cages behind high walls produced fear, distrust, and subjection which have consistently hardened criminals, sending them out into the world distrustful, dejected and revengeful, to say nothing of the depletion of their health and bodily vigor. However, in every prison there will always be a modicum of patients who will not respond to any

kind of trust. Successful wardens have usually been able to fathom the personality of their men sufficiently to determine whom they could trust successfully. This is not necessarily the work of a psychiatrist but rather the good common sense discernment of the custodian.

H. *Trust and Escapes.*—As public sentiment gradually adjusts itself to the newer methods of reformation, the public will not be so outraged by an occasional escape as it has been in the past.[1] Governor Alfred E. Smith has said:—"I believe that the cell-block system as used in our prisons should be abolished. A man locked up in one of these cages over night cannot feel that the state is treating him as a human being. The ideal prison, in my opinion, should be built on the cottage plan. I do not believe that it is necessary to cage men up as in earlier times; it is not so easy to escape in these days of automobiles and motorcycles; but it would be a good deal better for one or two to get away than for thousands to be so closely confined."

It seems better that one man out of a hundred escape (which is greater than the present average) than to subject the other ninety-nine to a system of debasement, in the operation of a bestial regimen. It is better that one man obtain his freedom illegally and continue in crime until recaptured, than that the ninety-nine who might be greatly influenced toward a respectable life and obedience to the law by a system which appeals to their highest qualities of manhood, be ground down to despair by a method which debases them and sends them out into the world with a grudge against the state maintaining such a system. Methods of identification have been so perfected that an escaped prisoner has little chance of evading detection if he is arrested in a distant state on suspicion of committing another crime. The Rockview Penitentiary in Pennsylvania, which is without walls, has had 145 escapes during its thir-

[1] *How Shall We Curb Crime?* B. Ogden Chisolm, p. 25.

teen years' existence and only seventeen of this number are now at large. This is less than one and a half successful escapes per year, or only .0045 per cent of the total number of men handled. It can readily be assumed that some of these have either discontinued their criminal pursuits, have died or have left the United States. The 128 who have been recaptured were resentenced to the Western Penitentiary for additional periods of time, approximating their original sentences. Popular sentiment in regard to the value of honor in the treatment of prisoners is responsible for the many honor camps and farm groups which have been established in many of the states.

High unsightly walls are destined to take the road traveled by the pillory, cat-o'-nine tails, rack, stripes, silence, and dirty, filthy prisons of the past which proved to be so degenerating to character and to self-respect.

14. *Origin of Plans for a Prison.*—There are few, if any, institutions in the United States which will grade as passable when measured by modern standards of reformation. Most prison structures are of ancient design. When new structures are required they are usually planned by architects who have given no previous attention to the scientific requirements of present day treatment. The ruling faction on the average committee, appointed to construct a new institution, is composed of business men who have had little or no experience in prison management, although they are usually high-grade, altruistic citizens. Usually, their services are voluntary and their attention is, of necessity, largely given to personal business interests, precluding the possibility of keen analysis of the many requisites of a program so essential to an up-to-date prison. The architect has his chief training and practice along the line of factories, business houses, office buildings, and other structures, private or public, and has possibly had no other prison to construct in his entire career. As soon as he re-

ceives the contract to furnish plans he assiduously sets about to learn all he can of the prevailing prison designs adopted by other states. It is noteworthy, however, that the average professional architect is so versatile that he is able to grasp quickly the fundamentals of modern requirements, when his attention is directed to them by criminologists.

15. *Contribution of the Warden.*—The responsibility falls upon the warden to indicate the needs. He is usually called upon, from time to time, to give his opinion as to the wisdom of certain arrangements of cell blocks, dormitories, chapels, recreation halls, officers' quarters, baths, utility rooms, factories, etc., to which arrangement he gives his best thought, based upon his wide experience in handling his population. While he is performing this service he is compelled to devote much attention to other multitudinous details connected with the prison he is managing. The size of the budget or appropriation for the construction of the prison, the character of prisoners to be handled, the location of the buildings, and other important features, must be given the most careful consideration. The time during which this elaborate service is performed is usually limited because the structure must be rushed to an early completion before the expiration of the incumbency of the governor. As a result the average prison is a "hodgepodge," the weak points of which become apparent as soon as the new institution is put into operation.

16. *Housing of the People and Prison Architecture.*—The architecture of correctional institutions is destined to undergo vast changes as scientific research develops. The housing of prisoners, while they are being corrected, is as important as the housing of citizens in free life. Housing surveys have been conducted at great expense in all important centers with salutary results. Building codes are full of regulations as to the size of rooms, lighting, sanitation, absence of crowding, and other restric-

tions made upon landlords for the housing of the people. The type of dwellings has a powerful influence upon the character and health of the people who live in them, and reflects much upon their future value as citizens. Likewise wholesome surroundings have to do with the rehabilitation of men and women who are confined in our reformatories. The character of segregation and classification is regulated largely by the arrangement of the institution in which the prisoner is to be confined. Questions of morale, vital to the reformation of prisoners, are closely associated with the character of living quarters. Almost every consideration involved in the art of restoration hinges upon the vital point of prison architecture.

17. *Great Uncertainty as to Future Prison Architecture.*—Since the public mind is undergoing an evolution in regard to the character of treatment for the correction of the criminal, there is great uncertainty in the minds of officials and architects as to the character of buildings demanded for the future. Every building committee immediately strikes this snag the moment it launches its boat into the turbulent river of prison construction. Just what character of housing will prevail in a quarter of a century hence is problematical and requires the best thought that can be focused upon it. The time required to complete a prison after the appropriation is available is usually five to ten years, and frequently much more time is consumed.

A. *Shifting of Plans at Rockview Penitentiary.*—A notable example is that of the new penitentiary in the central part of Pennsylvania which was begun in 1912 and which is, at present, only about half finished. Some of the first buildings are quite obsolete before the last ones can be finished, and a large portion of the original plans have been abandoned. It is possible that the final result will be an architectural hodge-podge and a disgrace to the designers. A comprehensive plan was at first conceived for housing a

total of 3500 men and the plans completed. The law contemplated the Rockview Penitentiary as the only prison for adult males in the state. The dining room, death house and laundry building have been constructed of monolithic concrete, all to be connected by an underground passage or tunnel. The central cell block, also reached by the tunnel, is 80% finished and is one of the most secure concrete prisons in the world.

After a large amount of money was expended upon the central buildings, there was a political change of management and it was suddenly decided to abandon the original plan. The large cell block was too nearly completed to abandon and it will be completed. The buildings in consideration as substitutes for the cell blocks will include dormitories similar to the Federal Reformatory at Lorton, Virginia, and hospital-like buildings with outside rooms and central corridors similar to the arrangement of the Westchester County Penitentiary of New York. The entire plan now contemplates a capacity of 1200 men. The recently planned buildings will be constructed of concrete blocks, manufactured by the prisoners. The large building originally designed for a dining hall to feed 3500 men, and at present used for dormitories, will be sub-divided into commissary rooms, dining room, kitchen, chapel, library, school rooms, reading rooms, etc.

A tremendous blunder in the original plan was the unnecessary security for men who are trusted to a greater or less extent in their daily farm labor. The general arrangement was copied from the old fashioned cell block system. The basement walls of this building are more than six feet thick and the outside walls of the super-structure twenty-eight inches thick, reinforced with hundreds of tons of reinforcing steel. The window space is only about two-thirds sufficient and the bottoms of the windows are higher than the ceilings of the lower tier of cells. While this is a very

powerful factor for safety, it renders the lower cells exceedingly dark and gloomy. There is a most substantial array of chilled steel bars throughout, presenting a cage-like appearance with absolute security as an objective, but with the obvious evasion of every suggestion of a normal habitation.

The plan presented a bastile array of strength, so objectionable to modern ideas that the state decided to abandon it. A high and ridiculously pretentious wall around the prison was originally contemplated but was also abandoned. The magnificent laundry building has been converted into a modern hospital and is ideally located for that purpose. The experience of Pennsylvania in this project is a glaring example of the instability of public sentiment as affecting prison architecture in this era of modern ideals.

B. *Transition of Ideas in Ohio Penology.*—Another example of this uncertainty is that of the Ohio State Penitentiary. A magnificent set of plans, ornate and luxurious, requiring five years to design and estimated to cost $10,000,000, was very auspiciously started, but upon the advent of the new state constitution and the resultant Public Welfare Commission the work has been suspended to give an opportunity for experts to study the real correctional needs of the state. Five years have elapsed with no definite plans accepted for the future construction.

C. *Problem of the Detroit House of Correction.*—A striking example of the uncertainty that exists in this shifting period, is the pending of plans for the Detroit House of Correction. That antiquated institution, located in the center of a city of more than a million population, has long ago outgrown its usefulness as a habitable institution. A farm of 807 acres, thirty miles from the city, was purchased about five years ago, and frame barracks were erected for a construction camp of sufficient quarters to accommodate 400 men who were to be employed on the construction of

the new prison. After a careful survey of prisons of all types and the engagement of Mr. Albert Kahn as architect to design the plans, an admirable institution was projected. The general arrangement of cells and rooms was patterned to some extent after the plans of the Westchester County Penitentiary, mentioned above. The correlation of departments was worked out with the most painstaking precision. Administration offices, receiving rooms, social service offices, dining room, chapel, hospital, school, recreation hall, housing quarters, and utility rooms were arranged for the greatest possible efficiency. The factory, administration building, and living quarters with their adjacent wings formed a natural and graceful enclosure for a spacious court, which space was to serve as recreation grounds. The harmonious arrangement of cells provided for thirty grades of segregation, in degrees from the greatest security to that of comparative freedom. If this arrangement materializes, it will be the most modern prison in the country.

On account of certain changes in the character of prisoners handled by the House of Correction, and the conviction on the part of some of the commissioners that new prison methods will soon demand a different character of arrangement, the project has lain dormant for the past four years.

D. *The Cottage Plan for Women Prisoners.*—Prisons for women are now assuming a somewhat uniform type. New reformatories for women have been established in various states, namely: Arkansas, New Jersey, Pennsylvania, Ohio, Connecticut, Maine, Kansas, Wisconsin, Nebraska, Missouri, Minnesota and other states, most of which have adopted the cottage plan of grouping to supply home-like treatment. The fact that so many states concur in this type of architecture would imply that public opinion is more settled as to the treatment necessary for female offenders.

E. *The New Jersey Plan.*—New Jersey recently announced a very comprehensive system for a men's reformatory, on the cottage arrangement, devised by Mr. Burdette G. Lewis, Commissioner of Institutions. The new reformatory at Rahway will comprise a group of buildings surrounding a quadrangle, without formidable walls. At one end of the quadrangle the administration buildings will occupy a prominent position. There will be an observation ward and a custodial building for disciplinary segregation. The dining hall, kitchen, bakery and hospital, all contiguous to the administration building, will face on the central campus. Back of the quadrangle twenty-four dormitories will be grouped along three tree-lined avenues. Beyond the dormitories ample provision for gymnasium and athletic field has been provided. The opportunities for segregation, education and normal environment can by this arrangement be made most helpful to the various classes of young men commonly sent to the New Jersey Reformatory.

18. *Greater Strides for the Future.*—A number of other states have been busy in recent years in the study of more up-to-date prison architecture, but we have cited a sufficient number to prove the fact that when the new development of criminology arrives and the science adopts a systematic and uniform therapy, there will be a corresponding transformation in prison architecture, as great as the evolution from the ox-cart to the aeroplane.

CHAPTER VI

PRISONS WITHOUT WALLS

1. *The Bastile Type of Prison Lacks Certain Reformatory Features.*—Municipal and state farms are the outgrowth of the failure of the traditional type of prison. The problem of suitable employment for certain classes of prisoners as well as for the enhancement of their health and morals necessitates open air treatment.

"That any man should be locked behind iron bars, sacrifice his liberty, sever home ties and social relationship and undergo the mental anguish of doing time without direct benefit to himself, is unthinkable. No penal institution worthy of the name exists solely as a place of confinement."[1] What is the sense of all this empty existence in a tomb? Many well meaning folk have been known to distribute potted plants in the gloomy cells of some of the archaic strongholds of crime. Why? Because they recognize that the morbid atmosphere of close confinement in a cell is depressing. They attempt to impart to it a faint suggestion of nature with a few withering flowers.

2. *Artificiality of Walled Prisons.*—We have shown that you cannot expect a man who has been closely confined for years in a narrow cell, mechanically rising, eating, working and retiring at the sound of a gong, never able to act independently of the rigorous machine in which he lives, to be as broad and self-controlling as he might have been had he spent the same time in freedom.

Right behavior acquired in such a régime is more or less

[1] Anonymous.

artificial. The purpose of close confinement in our strong and secure institutions is security for humiliation and compulsory right living. Its real effect is the atrophy of those finer qualities which balance the character, rendering the prisoner more susceptible to crime than when the treatment began.

3. *Contrast of Security and Trust.*—We place a man in this place of security because he is a bad man. He sees the strong bars and the armed guard, with every precaution against his escape, and begins to reason with himself: "I am carefully watched and securely entombed. They fear that I will run away or hurt somebody. I must be a dangerous character. My keepers are afraid of me, I must live up to their expectations. How can I beat the game? I have evaded arrest for a long time; I nearly beat them in my trial; if I watch my chance I can get the best of them again." Place a man on his honor with a wide range of freedom, and he naturally reasons: "There is some one who has confidence in me. I have been hunted and caught, convicted and shown that I am wrong. I am here to be made better, and am treated as though there is some good left in me. I will show them that their confidence is not misplaced. If I should break my trust I would bring reproach upon the man who believes in me, and make it harder for my fellows. I will try to make good." Which system is the most likely to succeed in building character?

4. *Examples of Mental Deterioration.*—Dr. Frederick H. Wines recited an incident of a man suddenly released after five years of close confinement who upon seeing a team approaching, a block away, waited nervously to cross the street until the team had passed, although the wagon was loaded with brick and was of course going very slowly.

A man who had been confined in an institution where the rule of silence was enforced, learned that if he wanted a cup of coffee he should raise two fingers and if he wanted

water he should raise one as a signal. Imagine his surprise, and the surprise of his family when eating the first meal at home after his release, to discover that he was sitting silently, holding up two fingers. This is just another proof that we are creatures of habit.

The structural qualities of the average prison are not conducive to the cultivation of self-expression in the personality of the prisoner. The caged bird soon loses its power of extended flight. The imprisoned soul is compelled to confine its thought stolidly to the interior of solid stone walls and iron bars. Initiative is sacrificed at the shrine of stupidity.

5. *A Normal Existence Necessary.*—Reformatory life should be as nearly like the outside community as possible, so as to encourage the inmate to think in terms of a free citizen, and to cultivate thoughts harmonious with the larger sphere he is to occupy in the future. The lock-step and the silent system have been almost universally abolished because they destroyed individual expression and action. The prison paper, self-government, the forum, and recreational privileges have begun to replace those absurdities. Healthful, constructive influences to render the prisoner broader for that strategic period of readjustment should take the place of everything in the institution which tends to contort or narrow his character.

An old lady who had been incarcerated in the narrow confines of the Detroit House of Correction for seven years was taken across the street to the superintendent's residence for a day's vacation. She stopped in the middle of the street, looked up and down uncertainly, and finally had to be urged to proceed. She said, "How strange the street looks, I have not seen it for seven years." When taken to a flower bed she gazed intently and wonderingly at the blooming flowers. "Don't they look strange? I haven't seen one growing for so long, you know." Point-

ing to one that reared its beautiful head higher than the rest, she hesitatingly pointed it out and said, "Isn't it beautiful?"

"Yes, Mary," she was told, "that little flower bloomed for you, only."

She drew back and inquired, "You don't mean that I can have it, do you?"

"Yes, Mary, you can pick it yourself."

With reluctance, though eagerly and tremblingly, she reached down and gathered it, clasping it closely to her breast, smiling through her tears. "You know, I haven't picked a flower for seven long years." Could it be possible that this old lady was as broad as she was when first entombed?

6. *The Farm Stimulates Trust and Breadth of Thought.* —Dr. Gilmore of Canada once narrated some of his experiences in taking about 300 men into the forests of Canada to build a prison. He at first provided temporary housing for his men after which, with great effort, he began to construct a wall around the site. After considerable labor had been expended along this line, it suddenly occurred to him how foolish he was to employ his prisoners in comparative freedom in the dense woods to construct a wall about themselves. If they could be trusted to do that much, why not always? Why not conduct the prison without walls, and continue to appeal to their honor? This he did. His subsequent success was due largely to the invisible wall of morale and co-operation secured by means of good treatment, justice and friendship.

It is easy to understand why the penal farm with the honor system and semi-autonomous methods contributes a higher type of parole to society than the old penitentiary system. The wholesome country air, far removed from the dust and grime of the city; the exhilarating sunshine, so different from the dark resounding cell block; the interest-

ing and diversified farm work, leading to a real love for productive labor; the spontaneity of mind to rehabilitative measures; the freedom of the outside world with no walls nearer than the horizon, all contribute to a broader, freer conception of life and its vast possibilities.

The bigness of the farm and surrounding country carries with it the feeling of confidence and is promotive of the expansion of those higher qualities of manhood which must develop in the process of reformation. To get close to nature; to till the soil; to plant the seeds and watch them grow into food for stock and man; to know that you are not guarded every moment but are to some extent your own master, cannot but stimulate the noblest and best thoughts of which a man is capable.

7. *Ideal Treatment for Misdemeanants.*—Such misdemeanants as habitual drunkards, the victims of other vicious habits, vagrants, disturbers of the peace, family deserters, and many other kinds of offenders receive the most efficacious treatment on the farm colony. Interesting and productive employment, contiguous to the soil in the fresh, pure air and with an abundance of wholesome, nourishing food, humane treatment, and a wide range of freedom unite to build up the bodily vigor, resistance, and good motives of these unfortunate men and women who have not proved strong enough to maintain a clean, independent existence.

8. *The Farm Cure for Inebriates.*—There is little good accomplished in sending the habitual drunkard to jail time after time, at great cost to the court and police when he is isolated merely long enough to sober up and is then released to get drunk again. Farm life, for such unfortunates, provides a more humane and sensible treatment than can be found in a walled prison. H. Norman Barnett, in his book, "The Legal Responsibility of the Drunkard," says: "There is probably no greater injustice in the country

at the present moment than our treatment of the habitual drunkard. He is suffering from a diseased and functionally imperfect brain. Prolonged treatment in government inebriate reformatories is the only truly merciful and scientific method of dealing with these cases. A small proportion of them will not be cured even by prolonged treatment. For such, a life sentence would carry out the great principle of the protection of the community, and would undoubtedly be the most merciful provision for the irreclaimable drunkard."

The broad acres of a penal farm provide the invigorating qualities, the proper amount of freedom, the physical exercise they need and impart the resistance necessary for these patients to permanently break the habit. Nine years' experience with the farm treatment for inebriates has assured me that hundreds of them never reverted to the habit. They were emaciated and debilitated when received at the farm, but after a few weeks of good food, healthful exercise, fresh air and sunshine, they were strong and rugged, with sufficient strength and manly resistance to enable them to keep sober. This was especially true if their habit was not due to some mental defect. The management of a penal farm should emphasize the mental and physical rehabilitation of its prisoners as the foremost objective; and if they are incurable, thus to provide for them a humane and permanent isolation from the public.

9. *The Penal Farm Had Its Beginning in Europe.*—The farm colony idea originated in central Europe about a century ago and has been extensively used in Belgium, Holland and Switzerland as a solution of the vagrancy problem. Among the most notable of these farms are Mexplas, Wortel and Hoogstractem of Belgium. Mexplas, which is near Antwerp, a compulsory colony for more hardened vagrants, has an area of 3000 acres, surrounded by heath and marshes. It has great dormitories and refectories,

shops, churches, hospitals, farm buildings and administration buildings sufficient to care for a population of about 6000 prisoners. Vagrants are committed to the colony for periods ranging from two to seven years. They are employed in a great variety of industries besides farming, such as weaving, printing, tailoring, foundry work, blacksmithing, mat making, trunk making, shoemaking, carpet making, the manufacture of cement blocks, furniture, wagons, pearl buttons and a number of other articles.

Veenhuizen in Northern Holland is a similar colony of about 7500 acres and about 3200 population. The Witswil penal farm, located in the Canton Berene, Switzerland, consists of about 2000 acres of very fertile land farmed by about 250 prisoners. It has been a great financial success, is reformative in its influence, and has been regarded as a model farm colony.

10. *American Penal Colonies.*—Several farm colonies started about the same time in the United States during the first decade of the present century. The first of these was the Cooley Farm at Cleveland, Ohio. That was soon followed by the Kansas City Municipal Farm and the Washington, D. C., Workhouse Farm at Occoquan, Virginia. Since that time the idea has become quite popular in all sections of the United States.

The following federal, state and municipal institutions are among those which at present conduct farms for the purpose of providing agricultural training and fresh air treatment for a part or all of their populations:

	Acres
Arkansas State Penitentiary	10,300
Arizona State Prison	640
Arkansas State Farm for Women	186
Colorado State Prison	1,100
Connecticut Reformatory	300
Connecticut State Farm for Women	850
Detroit House of Correction	807

	Acres
Florida State Prison Farm	18,000
Federal Reformatory and Washington City Farm	2,200
Georgia State Farm	2,000
Illinois State Penitentiary	2,200
Idaho State Farm	240
Iowa Reformatory for Men	1,400
Indiana State Farm	1,892
Kansas City Municipal Farm	207
Kansas State Penitentiary	1,200
Maine State Prison	300
Massachusetts State Farm	1,477
Maryland House of Correction	1,200
Minnesota State Prison	1,000
Missouri State Prison	1,144
Montana State Farm	636
Michigan State Prison	4,000
New York Great Meadow Farm	998
New York State Reformatory	421
North Dakota State Penitentiary	961
New Jersey State Prison	1,000
Nebraska State Prison	607
New Mexico State Prison	150
New Castle County Penitentiary, Delaware	200
Oregon State Penitentiary	500
Ohio, in 23 institutions, a total of	13,223
Rhode Island State Prison	450
South Dakota State Penitentiary	1,000
Southern Illinois Penitentiary	592
Texas State Farms	40,000
Vermont State Prison, House of Correction, Windsor	500
Western Pennsylvania Penitentiary, Rockview	6,300
Wisconsin State Reformatory	600
West Virginia State Penitentiary	200
Utah State Prison	180

It is not claimed that the above list includes all the institutions in the United States which conduct farms. Many other penitentiaries and reformatories maintain farms for various groups as a part of their industrial plan. The Department of Justice of the United States has recently

established a prison camp at Chillicothe, Ohio, using the broad acres and barracks of Camp Sherman. The above instances are cited to demonstrate that the farm treatment is becoming increasingly recognized as the most effective treatment for the various grades of offenders. Before many years, practically every penal institution will use the outdoor method, which prospect marks an important forward step, demonstrating the fact that high stone barriers are toppling and giving way to the invisible walls.

11. *Honor Camps and Outside Trust.*—The "honor camp" is analogous to the penal farm and usually involves the same principles. It does not, however, include as large a proportion of the entire prison population because they are usually used for the most trustworthy prisoners sifted from the larger prison population and sent to a camp conducted outside the walls, sometimes located many miles from the central institution. For a period of possibly fifty years various institutions have maintained honor camps for the purposes of farming, brick making, road building, and prison construction. The groups sent to these camps are of highly selected men, judging them from the general standpoint of deportment, character, family ties, ownership of real estate, and other bonds which render them comparatively free from the escape hazard. By taking into account these qualifications a warden can be reasonably sure that a man will not escape nor leave the camp temporarily to commit depredations upon the property of the surrounding neighbors. He has too much at stake.

A. *The Arkansas Tracts.*—The Arkansas State Penitentiary Commission controls a total of 10,300 acres, of which approximately 7500 acres is under cultivation. This land is in two separate tracts and the men are worked in units of about one hundred prisoners to each unit. Each farm is under the direction of a warden who employs trusties to guard the men and to direct them in their work.

These farms are regarded as much more successful than the walled institutions.

B. *Road Work and Honor Camps.*—For many years, Warden Tynan, of Colorado State Prison, has been very successful in conducting his institution largely after the plan of an honor camp and has done a great deal of public improvement, such as building roads and bridges, farming, etc. The prison at Guelph, Ontario, was constructed under the direction of Dr. Gilmore, on the basis of an honor camp. The Michigan State Prison at Jackson, Michigan, has several of these camps in which the necessity of strict guarding is largely eliminated, and Michigan has been very successful in using honor prisoners in road building with the promise to the prisoners of a speedy parole and with the additional incentive of fair wages. The Detroit House of Correction Farm, located about thirty miles from the city of Detroit, is a worthy example of the honor camp, conducted for the cure of misdemeanants. The buildings are of frame construction, having no locks nor bars on the doors and windows and the officers do not carry guns, but merely act as foremen to instruct the men in the performance of any technical work they are required to do.

C. *The Wilmington Honor Camp.*—The New Castle County Workhouse at Wilmington, Delaware, formerly under the direction of Mordeca S. Plummer, has been conducted, in part, on the basis of an "honor camp." In that institution there are eighteen or twenty life prisoners of intelligence, trustworthiness, and apparently good character, barring the heinous crimes for which they were originally committed. Mr. Plummer discharged all of his officers except two, who were necessary to guard the outer gate, day and night. He organized the entire prison, in all its details, under faithful direction of the "lifers." The entire prison body responded nobly to this new kind of organization and have been true to its regimen, making it possible to conduct

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the labor on the farm far away from the prison walls, as well as the inside industries, without any disastrous effects. Unfortunately, Mr. Plummer died about three years after he started the system. A group of lifers accompanied the body to the grave, acting as pallbearers, and after the funeral, returned to the prison without guards, but with disconsolate hearts, not knowing what kind of disciplinary changes would follow the death of their friend and master. The board of directors, imbued with the possibilities of Mr. Plummer's system, decided to continue the method, under the direction of Warder Elmer J. Leach, which to all reports has been very successful.

D. *The Rockview Penitentiary.*—The Pennsylvania farm experiment now being tried in Center County, near Bellefonte, comprises 6300 acres, and the boundaries of the farm are regarded as the confines of the prison. It is not legal to send trusties beyond the limits of the farm; but since the farm embraces a total area of about 10 square miles, it is possible to give sufficient range of freedom to the most trusted men who are farming, dairying, teaming, cutting timber, reforestration and constructing new buildings. The opportunity of a prisoner, who is placed on his trust, to show the keeper that his confidence is not misplaced, appeals to the highest principles of manhood, giving him some opportunity for self-expression and broader development. It is seldom that a man thus trusted will be truant to his trust. The additional responsibility placed upon him inspires a response in him to show the public that it pays to trust him. A few weeks ago, a trusted prisoner of long sentence was sent to a distant barn, on the Rockview acres, to perform a certain task. After completing his work he started back to the prison and became lost. He wandered around through the hills for some time, finally coming to a residence, and telephoned to the central office for directions to get back to his dormitory.

E. *The Florida State Farm.*—One of the most notable examples of state farms in the southern section of the United States is the Florida State Prison Farm at Raiford. The housing camp is located near the center of the vast area of 18,000 acres (more than 28 square miles of territory) and most of the industries are purely agricultural. The population is composed chiefly of negroes and a maximum of freedom is given to them. There is seldom an escape from this camp and the morale of the prisoners is unusually good, considering the quality of prisoners handled.

F. *Other Examples of Trust.*—Several institutions have adopted the plan of sending worthy prisoners unguarded to the funerals of near relatives with the instruction to report back to the institution within a definite period. We have sent prisoners long distances, sometimes to distant states, where all jurisdiction over them was surrendered, trusting to their honor to return. We have never been disappointed in one of them. A few years ago, Warden Codding of the Kansas Penitentiary adopted the innovation of sending some of his most meritorious prisoners to their homes for the Christmas holidays with the obligation to return at a specified date. The warden was not disappointed in the trust thus bestowed. He reasoned that it was better to lose an occasional man in this way than to fail to confer the regenerating influence upon the character of the men who proved to be true to the trust; but since none were recreant to their trust there was no loss, but all gain, save the carping of some thoughtless critics.

We leave it to the good sense of the reader to decide whether or not he was correct. Public sentiment tainted with vindictive prejudice stimulated by vivid press comments sometimes prevents the warden from extending trusts to his prisoners which would be of real advantage to the individual and to the morale of the entire population. There are many men who would loyally and enthusiastically

respond to such confidence and be greatly benefitted by it. In the last analysis, society would be the winner.

G. *The Dayton Plan.*—A few years ago the city of Dayton, unwilling to rob the families of the support of their bread winners, adopted the method of sentencing misdemeanants to jail and permitting them to go each morning to their regular places of employment, but requiring them to return to the jail at night to sleep. In this way a continuity of employment was maintained. Their families were supported regularly, yet the offenders were given the intended lesson that the law cannot be violated with impunity. It removed, to a large extent, the stigma of jail life, eliminated the promiscuity, idleness and mischief usually encountered in the environment of a jail, encouraged the men in thrifty habits, and proved to be a constructive influence. The practice has been emulated in some other isolated communities with equally good results.

We have offered the above examples to show that "high walls and iron bars do not a prison make."

It is a burning question in the minds of many people of this enlightened age as to the extent and degree to which close confinement behind gray walls and strong bars is really necessary. Will not the new psychology of prison management and experiments such as we have mentioned, introduce many more humane, common sense practices in the handling of prisoners? Time, alone, can tell.

12. *Variety of Industries and Training.*—The industrial activities provided by the farm are numerous and varied. The farming activities can be conducted as intensively as is necessary for the production of small vegetables, such as radishes, onions, celery, carrots, etc., requiring a maximum amount of work, the products being correspondingly more remunerative. Cattle, poultry, horses, hogs, sheep and other animals must be cared for throughout the year and offer a variety of valuable training. Production of food

for the herd provides labor for another large group. The dairy alone furnishes a number of activities in the producing of milk, butter and cheese, building up a thoroughbred herd, caring for the calves and keeping quarters sanitary. Raising fruits, berries, and garden vegetables, canning and preserving; raising willows for basketry to be woven during the winter; making tile, brick and cement; stone crushing, logging and sawing, constructing buildings, making fences, clearing fields of stone, baling hay, threshing wheat and oats, shucking corn, filling silos, and many other activities contiguous to the soil, employ large groups of men in profitable and instructive work.

"How do you find work for the men in winter?" is often asked. The natural resources of a large farm provide ample work summer and winter for many men, and many of the above occupations continue uninterrupted throughout the year. The average penal farm manager is not so much embarrassed in finding work for his men as he is in finding sufficient men to do the work which often becomes exceedingly urgent.

13. *General Principles Applicable to Penal Farm Management.*

(1) The maximum trust and freedom of action for the individual prisoner such as will be appreciated and honored by him should be extended. Such trust must be guaged, however, by the character of the inmate.

(2) Open air employment is preferable to closed shops for prisoners, and the character of employment should be productive, interesting and instructive.

(3) Discipline of the highest order should prevail. Neighbors must never have reason to complain of disturbances because of the wide freedom given the men.

(4) Adequate remuneration for foremen is a necessity so as to secure the best talent possible. Every officer is expected to be able to direct groups of men in at least one kind of skilled labor, as a foreman.

(5) Strict morality and sterling character is a requirement on part of foremen and officers.

(6) A school should be conducted for the instruction of officers and foremen so as to unify the organization and mould their attitude toward the prisoners.

(7) The farm products, such as meat, eggs, poultry, milk, butter, canned goods, etc., can be used by the different city or state institutions, thus reducing maintenance expenses, and need not be sold on the open market.

(8) Winter activities for a large portion of the prisoners must either be provided by the natural resources of the farm, or those which are contiguous to the soil, such as brick making, cement making, burning lime, and other types of manufacture.

(9) A system of compensation for the prisoners' work should be established which should go to the support of wives and children or, if without family, to their credit for use after release.

(10) Short sentences or definite sentences are not conducive to the cure or reformation of misdemeanants but should be indeterminate, and a system of parole should be maintained for all classes of prisoners.

(11) Careful study of the defects responsible for each man's delinquency should be made and individual treatment applied in the selection of employment, segregation, and training.

(12) The practice of segregating in classes should be followed, providing separate rooms for sleeping; grading by means of the merit system; promoting to higher grades and subsequent parole.

(13) A well-equipped hospital with facilities for isolation of cases, and a good resident physician are in keeping with other health measures on the farm colony.

(14) Gloomy surroundings should be eliminated as far as possible and rooms should be so located that plants, flowers and sward are visible therefrom.

(15) Scrupulous cleanliness of buildings, grounds, accoutrements and persons of prisoners should be maintained. Plenty of clean water and adequate bathing facilities should be always available.

(16) The dietary should be wholesome, adapted to the physical needs of this class of patients and with as much variety as possible, not to be extravagant, with careful balancing of rations and adaptation of food content to the needs of the men.

(17) Education of inmates, including libraries and religious instruction, should be a prominent feature of all places of correc-

tion. Constructive recreation should be provided at proper intervals.

(18) Treatment of all prisoners should be humane, offering incentives to do right, rather than by constantly trying to enforce obedience by punishment.

(19) Exposed firearms in the possession of officers have a tendency to irritate the prisoners and have the same depressing effect as other barbarities of an obsolete system.

14. *The High Walls of Fear.*—We should not deceive ourselves, jumping at the conclusion that a good morale and co-operation of prisoners are the only invisible walls around the prison farm. There is always some additional reason, perhaps several, other than a wholesome atmosphere, which prevents prisoners from deserting. I have known some farms without walls where there was a very decided element of fear to intimidate the men against escaping.

A. *The Use of Bloodhounds.*—One warden who housed his prisoners in the center of several thousand acres of state owned land, for the most part comparatively barren, boasted at a meeting of prison officials that his prisoners seldom if ever attempted to escape. It was subsequently learned that a pack of bloodhounds was kept near the barracks, ready at any moment to run down an escape. The state possessions surrounded the barracks several miles on every side, which made it next to impossible for deserters to get off the state property before they were captured. Very high and formidable walls, we should say. However, it is not to be inferred from this that there was not also a fairly good morale, despite these material precautions.

B. *Penalties for Escaping.*—Pennsylvania, Michigan, Indiana, and several other states conducting farm colonies have prescribed in the statutes severe penalties for escaping from the prisons. The law of Pennsylvania for instance makes it possible to double the original sentence for the

crime of escaping. Men serving five to ten years will think very seriously before running the hazard of having an additional period of five to ten years added to their sentence. The officials of Rockview Penitentiary originally contemplated the erection of an imposing and expensive wall around the central groups of buildings, but abandoned the plan on account of frequent high drifts of snow, prevalent in that mountainous region. Subsequent experience has demonstrated that the walls are unnecessary. There are few escapes and practically every one who attempts to escape is captured and is re-sentenced to a walled institution.

C. *Deterrent Measures Stultifying.*—It remains for future philosophers to determine the psychological effects of the invisible walls of fear. Perhaps they have about the same influence as the deterrent penalty has upon the free man out of prison, and are certainly better than the foreboding, depressing walls of masonry. I should say they have a much less depressing influence than a pseudo "honor camp" in one prominent state prison where there are two wire stockades about the camp, the space between which is regarded as "no man's land" and guarded by a gunman at each corner of the grounds. Whether the walls are of stone, wire or fear, an *esprit de corps* is by far the most desirable of all deterrents, and this wall can be maintained much more effectively and economically by the constant sympathetic appeal to the nobler qualities of loyalty, cooperation, fair play and friendship.

There can be crushing, stultifying influences in a prison camp, or in the farm colony as well as in the walled penitentiary. Life, even there, has its stigmatic limitations. Foolish restrictive rules may be imposed which will annul the good influences of the larger freedom. The walls and bars may have been removed, but an artificial regimen is quite possible which will limit thought expansion by unnecessarily stringent and meaningless rules.

The penal colony and honor camp method is perhaps the most pronounced expression of the new humane attitude toward the criminal, which recognizes him as an unfortunate being in need of intelligent, firm but kindly treatment. The correctness of this view is undoubtedly substantiated by the good results realized in the above mentioned examples and the increasing popularity of the movement.

CHAPTER VII

PRISON INDUSTRIES AND COMPENSATION OF PRISONERS

1. *Original Objectives of Prison Labor.*—The original purpose of prison labor was for punishment. In early times there was no punishment more dreaded than "galley slavery" and "penal servitude." Most of the states today impose "hard labor" as the onus of the sentence: for instance, the law of Iowa says: "All punishments in the penitentiary by imprisonment must be confinement to hard labor." Felons are sentenced in Pennsylvania to "imprisonment at labor by separate or solitary confinement." When it is taken into account that all pecuniary crimes and most of the crimes against property are committed by men who are seeking easy money without having to earn it, these penalties are in severe accord with the offenses.

2. *The Reformative Influences of Work.*—Although prison labor was originated as a retaliative measure, it is now universally recognized as having a salutary effect upon the character of the prisoner, and hard labor is insisted upon because of its reformative influence. The humane and sensible idea that the prisoner is benefitted by work, and is correspondingly injured by prolonged idleness is the master motive for prison labor, as "idleness is the mother of crime." To compel a suitable quantity and quality of labor, carefully adapted to the vocational aptitude of the prisoner, cultivates in him the work habit, which is often retained upon his return to freedom. If this work contains the element of apprenticeship, he is likely to find congenial employment after his release, and thus have an honorable means

of livelihood. The great majority of prisoners are far below the average in industrial efficiency, and are consequently victims of mal-adjustment. Being unskilled in any honest trade or profession, they become unsteady of habit and character. This lack often accounts for criminal practices. To give them skill in some trade which can be followed in free life, removes them farther from the probability of future crime for a livelihood. It was a favorite maxim of Howard, "Make men diligent and they will be honest." It is also a well known fact that almost all kinds of prison labor build up bodily health and vigor, compel thought awakening, and in many other ways react favorably upon the character. The most pathetic spectacle seen in a prison where enforced idleness prevails, is the deathly pallor, the stolid stare, and emaciated bodies of the men, who without mental or physical exercise, are forced to sit in their cells and brood over their troubles day and night throughout their incarceration.

3. *The Injustice of Injured Society Supporting the Criminals in Idleness.*—When modern principles began to prevail in the treatment of prisoners, the thinking public soon realized that it is unjust and unfair to compel the honest part of society, whom the criminal has wronged, to support law-breakers in comfortable indolence. How to compel offenders to contribute as much as possible toward their own maintenance and to fit them for honest self-support when liberated, at the same time to demoralize as little as possible the price of commodities produced by free labor, has been widely discussed since the introduction of the penitentiary system. There is one point, however, upon which all agree: the prisoner should not be maintained in idleness but should be taught to work, and if possible, he should be induced to like it.

4. *Three General Principles Necessary to Prison Labor Are Generally Recognized.*

First: Prison work should be constructive. There is no curative value in compelling a prisoner to perform a purposeless task. The man in process of remaking must be able to see his purposeful production growing under his efforts so that his labor will react to the best possible advantage upon his character. He must be taught how to be a producer. If he is compelled to break rock with a small hammer day in and day out when he knows that he could produce a hundred fold more with a power crusher, he is discouraged and loses interest in the task he is performing. It would be exceedingly irksome to be compelled to pound on a stump all day with a wooden maul. Moreover, it is due to the taxpayers that the man who has wronged society should earn his own support while he is being corrected.

Second: The work should be interesting—that is, it should be as nearly as possible adapted to the vocational aptitudes of the worker so that he will naturally respond to its demands, work cheerfully and without the necessity of coercion. A great many prisoners are taught to work, but not all are taught to really enjoy work. Various incentives are necessary to secure this objective—the interest and encouragement of foremen, proper remuneration, advancement in grade for diligence, increased privileges for industry and the stimulation of efficiency in production, all unite to interest the prisoner in his employment. Not long ago fifteen men, with teams on one of our farm colonies, were breaking up a large field for corn-planting. The deputy, who was highly respected by all the men, came into the field and noticed that they were not taking sufficient interest in their work. After a few pleasant words he asked one of the men to let him take his team and plow a round or two. The men were very much pleased to see the deputy in his bright new uniform plowing with them in a very efficient manner. They took greater interest in their job from that hour and greatly increased the quantity and quality

of their work throughout the season. By taking into account the natural proclivities of the prisoner, in the selection of his employment, the habit of work is more deeply implanted and he is more likely to take an interest in learning to do it well.

Third: The employment of the prisoner should be instructive. The highest possible end is conserved where the daily routine is made a part of his education. He is an apprentice and is learning a trade which he enjoys and expects to follow in after years. Vocational guidance fits him into a trade or art which will afford him a lifetime occupation. He is thus given a double incentive to perform his task in an efficient manner.

5. *Various Systems of Prison Labor.*—The following is a brief description of the several systems under which convicts have been employed in various states:

A. *The Lease System.*—Under this plan the state enters into a contract with a lessee who is given the right to take the convict away from the prison to the place of employment. The lessee agrees to care for the prisoner, clothe and feed him and to pay a stipulated amount for his labor. The state profited more by the use of this system than by any other plan because there was less expense attached to it. The state reserved the right to supervise conditions under which the prisoners worked and lived; but, notwithstanding this precaution, many atrocities have been perpetrated upon leased prisoners by cruel task-masters who had little interest in them except to drive them as abject slaves. Some of the Southern states employed the lease system more than other states in the period following the Civil War because they were not equipped with sufficient prisons, and the industries of the South lent themselves more readily to this method. On account of the inhumanities practiced under the lease system, it has become more and more unpopular until in 1922 a young lad by the name of Martin

Talbert was killed in a Florida camp, bringing a tirade of criticism against the state and resulting in the abolition of the system. The lease system is now practically extinct.

B. *The Contract System.*—Under this method a factory is conducted at, or near, the prison under the industrial management of an outside manufacturer. The state retains control of the prisoner, feeds, clothes and otherwise cares for him, but sells his labor for a daily consideration. The state usually provides the factory, and in some cases furnishes light and heat, and the contractor pays a pittance for the labor of the prisoner. Since the contractor is supplied with so large a proportion of his overhead expense and commonly has to pay less than a dollar a day per capita for the labor, he is able to manufacture his wares at a very low cost. The temptation is thus afforded to undersell factories employing more expensive civilian labor, thus creating an injustice to outside manufacturers and disrupting the market. Under this system so many inhumanities have been practiced upon prisoners, some of whom were feeble minded or mentally diseased, in efforts to coerce them to perform their daily tasks, that the public is almost universally demanding its discontinuance. In some cases men are punished cruelly on complaint of their overseers, who have no other interest in them than the work they perform. Labor organizations and large manufacturers are in the forefront in this public demand, because of the injustice to civilian industries. Under this system, however, a number of institutions have been able to render their industries sufficiently remunerative to pay all maintenance, and, in addition, to pay the prisoners small bonuses for exceeding their daily tasks. For this reason it still has a number of enthusiastic advocates, but on account of the very serious objections mentioned above it is not conducive to progress in prison reform.

C. *The Piece-Price System.*—This method is similar in

many respects to the contract system and has many of the same objections. The contractor pays the state an agreed rate per article manufactured. He furnishes the raw material, but the prison authorities assume responsibility for the character of the finished product. The prisoner is given a task of a specified number of operations, constituting his daily labor. After his required daily task is finished he is sometimes permitted to produce extra articles for which he receives a stipend for himself. This money is held by the warden to the credit of the prisoner and is either drawn upon as needed, or held for him until his release. The overseers have the same incentives for unjust practices and the contracting parties are able to disrupt outside trade by producing more cheaply than can be done in a civilian factory.

D. *The State Use System.*—The reversion of sentiment against the contract system and the piece-price system, naturally made necessary the substitution of a better method. For many years penologists have advocated that prisoners be employed in the manufacture of goods for state use only. Some of the states, notably New York, Pennsylvania, Ohio, Illinois, and several others, have established factories in their prisons to manufacture only such articles as can be consumed by the state, county, and municipal institutions. The statutes of these states prohibit the manufacture of commodities for sale in the open market, but provide for the manufacture of such goods as are used in public institutions. In Pennsylvania a survey of the needs of the various institutions has been made; and efforts put forth to induce these institutions to co-operate with the Department of Welfare by purchasing prison-made goods in preference to those manufactured by outside factories; but several serious handicaps have been encountered.

The law does not compel the institutions to purchase prison-made goods; the demands for various articles by the

institutions were so heterogeneous that it was impossible to operate on an efficient basis. For a long time the requirements of the various consuming institutions demanded so many different designs and sizes of shoes, garments, etc., that the prison factories were compelled to manufacture a great variety of products, and in so small quantities, that the prison industries could not produce cheaply enough to compete with the civilian factories which manufacture in larger quantities. The purchasing departments of state institutions were inclined to purchase supplies as cheaply as possible, and upon learning that prison-made goods were somewhat more expensive, often gave their trade to outside factories. As a result the prison factories were inoperative and a large proportion of the prisoners were idle. Out of the 4526 prisoners in Pennsylvania institutions, including the State Reformatory at Huntingdon, on May 31st, 1923, there were 987 engaged at productive labor, 1715 engaged in maintenance duties and 1592 were idle. Forty-two were idle because of illness.

The industries of the various prisons of Pennsylvania are now in process of reorganization under the management of the Bureau of Prison Industries of the Department of Welfare. Through various conferences of institutional stewards and purchasing agents, a standardization of the requirements of the various consuming institutions has been effected and the data passed on to the Bureau of Prison Industries. By this means the industries will soon be able to meet the demands of all the institutions, standardize their products and meet the competition of the trade. It is hoped by this means that all the prisoners in the state will be employed.

There is a restriction in some states, operating the state use system, against the selling of prison-made goods to other institutions in other states; and a national movement is on foot to secure the enactment of a Federal law making

possible the interchange of goods manufactured in one state for those of another state. This would give a larger market for the prison industries and enable them to produce more efficiently under a standardization of products. Some advocates of state account prisons object to this plan, fearing that the provisions of this law will bar them from selling their products in the open market outside of their own states.

E. *Public Works and Ways System.*—Many states use their prisoners to construct the buildings, walls, bridges and roads of the prisons. They employ a sufficient number of skilled foremen to direct the work, and use the prisoners for all of the rough work, such as quarrying and crushing stone, providing sand, mixing concrete, logging, milling, etc. Some prisons employ the higher grades of prisoners in skilled crafts, teaching them carpentry, stone masonry, brick making, etc. This answers very satisfactorily until the institution is finished, after which suitable industries must be established.

Other states, notably Virginia, Georgia, Colorado and Michigan, have made very creditable showings in the construction of state roads with convict labor. For several years Virginia and Colorado have operated road camps in various parts of the state and have added very materially to their good roads at a minimum expense. For the past three years the state of Michigan has conducted road camps, employing for the most part honor prisoners about to be paroled, paying them each one dollar per day for satisfactory work. Michigan has thus built some splendid roads.

F. *The Public Account System.*—Under this plan the state owns and maintains its own factories, purchases its raw material, supplies the prison labor, employs the foremen, and sells its products on the open market, using the profits for the support of the institution, or turning them back into the state treasury. On account of the greater

demand of the general public for uniform designs of manufactured articles, it is possible under the public account system to operate the factories along lines of manifold piece production, after the Ford method, thus greatly enhancing the efficiency of the factories and increasing the profits accordingly. Manufacturers have stubbornly objected to the state account system because many indiscreet prison managers have at times glutted the market with their products, notably those of chairs, brooms, garments, and bindertwine, at prices which outside competitors could not meet, thus forcing factories out of business and throwing civilian wage earners out of employment. It can readily be understood that if prison industries, using their cheap labor and manufacturing so economically, would sell their products at prevailing market prices, their profits would be correspondingly greater and they would overcome the only real criticism that can be urged against the public account system. Taxpayers would have less burden to support the prisons on account of the large returns from the industries and the objection to prison made goods would be obviated.

G. *Summary of Employment.*—We glean from the United States Department of Labor, Bureau of Labor Statistics report on convict labor for 1923 that prisoners were employed as follows:

Lease System	None
Contract	6,083
Piece Price	3,577
Public Works and Ways	9,763
State Use	18,850
Public Account	13,526
Idle	5,233
Sick	2,602
Prison Maintenance	25,127

6. *The Prisoner's Right to Productive Labor.*—Society owes to every person the inalienable right to remunerative

work whether he be prisoner or free. It is desirable that society provide employment for every worker whereby he can support himself and his dependents. The expense of supporting a prisoner in enforced idleness must be borne by taxes, which expense is ultimately met, for the most part, by free men who earn their livelihood by their labor. It is of little moment to the general public whether an article is produced in a prison or in an outside factory, if the quality is the same.

The prisoner is a potential producer in temporary custody and can perform only a certain amount of work whether he is a slave or a free man. No complaint is made by any corporation if he is a producer in free life. If the state assumes the responsibility of keeping him in prison, it should use his labor for his support while he is thus segregated. He should also be allowed to earn a respectable balance in order to care for his dependent family which might, otherwise, become a public charge. From the standpoint of economy, of training and of welfare of the prisoner and his dependents, the work he is compelled to do should be as remunerative as possible. It seems only a postulate that as long as an article, such as a chair. is made and sold, it can make any difference whether it is manufactured by men who have a wall around them, or by men who work in a factory and can go home at night. Today, the prisoner may be making chairs in prison and tomorrow he may be making them in an outside factory. The manufacture of chairs anywhere is merely supplying the public demand for chairs.

7. *Where the Injustice Lies.*—There is a palpable injustice in legal limitations which attempt to treat the labor of one man differently from another, just because he happens to be a ward of the state. No one could make any serious objection to prison labor if the state were to pay the prisoner a reasonable wage and exact from his earnings enough to pay the cost of his board, clothes, laundry and shelter. Prison

industries conducted on that principle would have less occasion to sell manufactured articles cheaper than those manufactured by civilian factories.

8. *The Public Account System vs. State Use System.* —If the prison industry manufactures chairs, it is merely helping to produce a part of the seats demanded by the public; whether this public is in institutions or whether it is composed of free men. If the prison labor produces chairs instead of brooms for the institutions, the prisons will be obliged to purchase their brooms manufactured by outside factories. If it produces brooms instead of chairs, free factories will have to produce more chairs for the inmates. Since the prisoners are entitled to produce something useful, it does not matter whether the products are sold to institutions or on the open market. If the taxpayers wish their institutions to be run so economically as to save them money in taxes, they are interested in seeing the prison industries conducted as profitably as possible. To manufacture chairs for the general public, much greater specialization in designs can be followed. The tendency is for every institution to demand a different design and quality, fitted to its particular needs, so that the prison industry catering to institutions alone cannot establish quantity production. Hence profit is sacrificed. For this reason the public account system is best from the standpoint of financial returns; but the state use system probably furnishes a wider diversity of training to the prisoner.

9. *Prison Industries as a Means of Vocational Training.* —Discussions in regard to prison labor have always placed the emphasis upon production, but more careful study will show that the most important consideration is our third proposition, namely: that "prison labor should be instructive." The work of a prisoner is one of the greatest forces toward his reformation. Thousands of prisoners are learning each year, for the first time, that they can do pro-

ductive work and can enjoy it. Their employment should at least teach them that their greatest happiness is in producing some useful commodity. Some wardens find it exceedingly difficult to devise employment adapted to the various vocational aptitudes of the men and at the same time teach them trades which they will follow after their release. Whether the men can be trained thus intensively or not, it is certain that the majority of them can be taught to perform useful tasks and to enjoy doing them. When we consider the indolent disposition of the average criminal, the accomplishment of teaching him to do some job well is a big step toward his restoration.

Quantity production and financial returns in prison labor are not a legitimate excuse for neglecting vocational training. A furniture shop provides a large variety of training in wood-making machinery, tool making, pattern making, designing, cabinet making, machine repairing, electric wiring, varnishing and finishing, wrapping and crating, and numerous other crafts which provide a wide range of apprenticeship. All of these vocations learned in a chair factory can be used in other kinds of wood-working factories. The dietary department can be so operated as to provide valuable instruction in balancing rations, studying proper food contents, domestic chemistry, meat cutting, judging foods, etc., which knowledge will add greatly to the general ability of the prisoner, even though he does not use the knowledge thus obtained in actual food preparation after leaving the prison.

It is sometimes claimed that only a small proportion of men, who are taught trades in prison, follow them in after life. Nevertheless, vocational guidance should seek to place every man in his proper sphere in the industries so that he will receive as much training as possible along lines of his aptitudes. We have known a great many men who were given training in prison trades through which they, for the

first time, discovered their proper niche in the industrial world. We have known many others who did not follow the exact lines of their prison training, but who were, nevertheless, successful in other industries because they discovered, while in prison, the pleasurable experience of productive employment.

10. *Remuneration of Prisoners.*—Much has been said and written by penologists, sociologists, business men and legislators about rendering prisons self-supporting; but comparatively little has been said about applying any of these profits to the support of the prisoner's dependent family, and to the readjustment of the prisoner into some gainful occupation after his release from prison. These arguments, for the most part, touch lightly upon considerations of the prisoner's needs, the rights of his dependents and the consequent future welfare of society. There is much more to prison labor than the immediate returns in paying the expenses of the institution.

If absolute justice is to be given to the ward, whom the state seeks to rehabilitate, no institution has the right to rob him of any opportunity to provide a personal fund which can be used to assist him in establishing himself in the business world after his release. When the state assumes custodial care of a prisoner and thus destroys his independent power to support his family, it should also assume responsibility for the welfare of his dependents. It is exceedingly unscientific for society to degrade a man to a period of hard labor, which is primarily used to turn profits into the State Treasury, while his home is neglected to the point of disintegration and the education of his children neglected.

One of the greatest penological blunders of prison management has been that the prisoner was subjected to abject slavery, with no opportunity to help himself or his dependents. The effect of such treatment is not an ultimate saving

to the state, because it returns the man to society discouraged and hardened, sometimes to the extent that he is driven to subsequent crime by his destitution at a greater public expense than was saved by his labor while he was serving his sentence. Every person committed to a correctional institution is a ward of the state, and a large portion of the dependents of prisoners are rendered charges of the state, or of private charity, as a result of his imprisonment. The treatment that the state administers to those thus rendered dependent is a matter of utmost importance, as it virtually determines the social attitude of the large group of persons so affected. We are therefore forced to the conviction that the state, as a matter of common justice, ought to pay the prisoner at least that portion of his earnings, which exceeds the cost of his maintenance. The ultimate returns to the institution in better production, better discipline and higher morale, should more than justify the outlay of money expended for that purpose. Dr. Healy, who has studied the prison welfare of a large number of delinquents, has said:—"One of the most appalling discoveries made in the study of offenders is that in attempting to protect itself, society so frequently ends by making matters worse. All sorts of punishments must be safely guarded if they are to have no ill effects." [1]

11. *Origin of Compensation for Prisoners.*—The subject of compensation of prisoners is not a new question, but was considered in early times even when retaliation was the keynote of prison management. The law of 1699 provided that men be kept at work during their imprisonment, and that no person who was able to work should be chargeable to the county, but that they should be allowed for their labor the sum of eight pence out of every shilling earned and the overplus of their earnings. If such persons were heads of families, the whole profits and benefits of their

[1] *The Individual Delinquent,* p. 168.

labor, or as much thereof as the court of general sessions of the peace should think necessary to direct, should be used for the relief and support of the prisoners and their families.

12. *Pennsylvania Introduces Compensation.*—Another early evidence of the existence of a plan for paying prisoners is found in Pennsylvania. The plan seems to have been part of the general humanitarian movement that was afoot in that state in the latter part of the eighteenth century. Early in the nineteenth century it was determined that the traditional system of solitary confinement in idleness was detrimental to the prisoner and in 1829 the legislature enacted a law that all prisoners be employed in some kind of labor. The following method of employment and compensation is supposed to date back as far as 1864. The prisoner was confined in a cell where he had his loom or shoe bench at hand and was at liberty to work as long as he pleased, to rest when he was tired, knowing that if he did more than a fair day's work, the surplus would be placed to his credit and be at his disposal when he went out. At present the prison industries of Pennsylvania are conducted by the Department of Welfare under the state use system. Prisoners employed in these industries are paid small wages, graded according to the quality of their work and the character of the industry in which they are employed, ranging from ten to fifty cents per day. The Legislature of 1925 enacted a law enabling the Bureau of Prison Industries to remunerate all prisoners engaged in maintenance activities, with a maximum of twenty cents per diem for each prisoner.

13. *Early Advocates in Foreign Lands.*—The first individuals to advocate the paying of wages to prisoners for their labor were Villian, Archbishop Whately, and Alexander Maconochie. Villian, who was connected with the prison at Ghent in the latter part of the eighteenth century, allowed prisoners a percentage of their earnings. Part of their earnings was their own to expend in the prison; part

was retained to be given them at discharge "so that they might not relapse into crime."

Under the administration of Archbishop Whately of Dublin in 1832, it was recommended that prisoners be given a labor sentence, which provided that they be allowed compensation for a certain portion of their work. Instead of being sentenced to confinement for a fixed period they should be sentenced to earn, at specified employment, such a sum of money as might be judged sufficient to preserve them, on their release, from the pressure of immediate distress.

14. *State Laws Providing Compensation.*—Various states have laws relative to the paying of prisoners. Perhaps there is no better index of public sentiment than that of statute law. This is especially true in regard to the remuneration of prisoners. The following states have enacted laws which provide various ways and means for the remuneration of men who are engaged in work during their imprisonment: Alabama, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Kansas, Louisiana, Maine, Michigan, Minnesota, Missouri, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, Wisconsin, Wyoming, and the territory of Hawaii.

15. *Not to Be Confused with Widows' Pensions.*—The following states have adopted various provisions for the pensioning of wives and children of men serving time in prison, viz: Indiana, Kansas, Minnesota, Missouri, Montana, Nevada, Ohio, Oregon, South Dakota and Wyoming. In isolated cases other states give gratuities from the Mothers' Pension Fund to the wives and children of convicts. This is not however to be confused with the plan of direct wages for prison labor.

16. *Examples of Parsimonious Compensation.*—In most

of the states the earnings paid prisoners are grievously inadequate. Many states provide that any convict who has conducted himself properly during his imprisonment may, at the time of his discharge, receive from the warden a stipulated sum of money, decent clothing, and money equivalent to the carfare to his place of residence. This plan, however, is more of a gratuity than compensation for labor and has the possible effect of impressing on the mind of the prisoner that he is the recipient of charity.

Several years ago an article appeared in a periodical complimenting Sing Sing for the splendid stimulus given to the men incarcerated in that prison because of the payment to each prisoner of one and a half cents a day. The munificent sum of one and a half cents a day totals $4.69 for an entire year's work. It is a hopeful outlook when a state can boast that it secures higher morale and better labor from its prisoners because of the payment in a year of an amount less than some free laborers earn in a single day. It is gratifying to know that the state of New York is earnestly striving to raise this stipend to a reasonable wage.

17. *Questionnaire Re Prisoners' Earnings.*—We recently received answers to a questionnaire sent to sixty penal institutions for adult males in the United States. Of these institutions, twelve reported that the state use system is employed; twenty-two reported that the state account system is in use at least partially; six have a combination of state use and contract systems, and nine have a combination of the state use and state account systems.

A. *Amounts Paid Cover a Large Range.*—Twenty-seven institutions pay wages to all prisoners. Of the twenty-seven, six also pay for overtime work; fourteen pay for maintenance work also. The amounts for maintenance work are usually less than for productive work. There was only one instance reported where there is a distinction as to the pay

of men with dependents. In two cases, mention was made of the fact that married men, or those with dependents, were given preference in assignment to remunerative jobs. In six institutions the pay for all prisoners is ten cents per day (fixed by law). In New York as already stated, the statute fixes the daily wages at one and one-half cents per day.

There is a large range of wages paid, which fact is illustrated by the following:—In Delaware, the daily wage average is sixteen cents; in Minnesota thirty-eight cents; in Nebraska the wage varies from ten to twenty-five cents; North Dakota twenty-five cents for all; Pennsylvania Industrial Reformatory wage varies from twenty cents to fifty cents per day; Cuba (Castillo del Principe) pays fifty cents a day on contract labor, and thirty cents per day on state use employment; Michigan pays a maximum of $1.00 per day for work on the roads.

B. *Kind of Work Compensated.*—Nineteen prominent institutions, selected as the very best in the United States from the standpoint of wages paid, report a total amount of $700,741 paid to 15,834 prisoners or an average of $45.00 a year per prisoner. Three or four states and a few city institutions pay money to families of men serving time for non-support. Kansas pays no money for relief but pays $1.50 for each ton of coal mined in excess of nine tons per week. Ohio State Penitentiary is one of the few institutions reported which makes any distinction between men with and without dependents. There are flat rates for the various jobs. Men with dependents are assigned to jobs paying one to three cents per hour. Vermont State Prison pays no regular wage rate, but a few trusties, usually married men, are allowed to work outside. Their share of their earnings is ninety cents per day.

C. *Attitudes of Wardens Toward Compensation.*—The majority of prison officials seem to be giving no serious thought to the right of prisoners to wage allowance. As a

rule, wardens who do not pay wages see no need of paying any. Those who pay a small sum seem to be satisfied. Wardens paying comparatively larger wages are dissatisfied with the small amount they are able to allow.

D. *Impediments to Compensation.*—By way of summing up the impediments, encountered in the various institutions to a profit sharing plan which would be of any great benefit, we find that in some institutions, a large portion of the prisoners are not employed in any kind of productive labor; in some institutions the industrial objective seems to center in vocational instruction; in a few others the contract or the state use system makes it difficult to provide enough funds for the remuneration of the individual prisoner, as the amount usually received for the labor of the man is not sufficient for his maintenance. It would therefore be difficult under the diverse systems employed to work out a general plan of compensation. Each prison of necessity has an individual problem according to its own requirements and possibilities.

E. *Systems Best Adapted to Compensation.*—The ideal system of prison employment for the purpose of sharing profits with the prisoner, seems to be the state use and public account systems because there is more flexibility in selecting industrial activities. The public account system, conducting a variety of industries, and a well organized plan of vocational training might well be developed to provide means to support the prisoner in the institution, to pay him a portion of the profits, and also to fit him for some trade outside. This method was unanimously endorsed by the Wardens' Association at the Conference of the American Prison Association at Jackson, Mississippi, in 1925.

18. *Incentives to Good Work.*—The ideal would be to provide a thorough vocational test for every prisoner who is employed, which would show clearly his aptitude for his work; to instruct him in the kind of work that he is assigned

to do, inspiring in him the pride of achievement; to analyze the tasks to which he is assigned, with an understanding of the psychological value of each operation to be performed, and to offer maximum incentives to the perfection of the effort. What inducements have we to offer which will secure from the prisoner the same conscientious, efficient service that he would give to the same position in free life?

If we are to expect real co-operation, on the part of the prisoner, other and more important forms of compensation must be devised to reward him for faithful service. It is generally conceded that a man is reformed largely through the work he does and it is the duty of the prison management to provide such incentives for this work as remuneration for service, to enlist his best efforts.

19. *Impediments Encountered.*—Wardens are confronted with many financial and administrative problems. The popular demand that a prison should be self-supporting is right and just because there are many men within the walls capable of supporting themselves. It cannot be expected, however, that an institution provide such remunerative employment that every one in prison would first be able to earn his own maintenance and at the same time render his family independent. Popular prejudice against prison-made goods sometimes makes it difficult to conduct some of the most profitable industries employing prison labor. Many conditions inside the prison, such as the immense labor turnover, the large proportion of population employed on non-productive maintenance tasks, and inadequate equipment make such large returns as would be necessary for such wholesale compensation practically impossible. If we should establish the standard rate of $500.00 minimum to support an average family in a modest manner, it would be necessary for a prison of 1000 inmates to make a total net profit of five hundred thousand dollars a year. Under existing conditions we know of no prison which can pay more

than a small fraction of such an amount to each man, with the possible exceptions of the Minnesota State Penitentiary at Stillwater and the prison farms of Mississippi. The best we can expect is that a small amount be paid to the prisoner to supplement the earnings of productive members of the family.

However, some means should be adopted to keep the family from disintegration and this should be done, even if subsidy must be resorted to as the only solution. Such expenditure would be warranted in the future rehabilitation of the men who are trying hard to make a new start in life.

20. *Funds Needed by Discharged Prisoners.*—In most of our states we find an inexcusable lassitude in regard to furnishing an adequate fund to the discharged prisoner to bridge over that strategic period immediately following his release from prison. It is true that many discharged men would squander any funds thus provided. The suddenly imposed freedom following years of repressions is likely to cause an emotional explosion of sufficient force to induce extravagances which may become calamitous. From our extensive observation, however, especially where proper supervision is given, the majority of discharged men husband their resources to the greatest advantage, paying their living expenses until they have secured employment. Discharged prisoners from most of our institutions leave the gates with exceedingly meager stipends with which to meet expenses while undergoing such discouraging experiences.

21. *Gratuities Given.*—Dr. O. F. Lewis in the "Development of American Prisons," [1] speaking of the prevalent custom of a few years ago, says: "The same curious custom of a final interview by the warden with the prisoner which was customary at Auburn Prison, was mandatory by the rules and regulations at Philadelphia. After the interview the convict was to receive four dollars from the state 'whereby

[1] Page 128.

temptation to commit offenses against society, before employment can be obtained, may be obviated.'

"To what extent four dollars would stand between a released prisoner and another crime, were it impossible for him to find immediate employment, is a question not hard to answer. The state of New York was giving to the released convict only three dollars. In neither Auburn nor the Eastern Penitentiary was there any chance for the prisoner to earn any money toward his own support when he should emerge from prison. Here again one has to wonder at the wretchedly false economy and poor psychology that would send a convict out, almost literally stripped of all means to make an honest living and cursed with a stigma of a prison sentence.

"Yet the thing happens today, in the state of New York. The ten dollars which is given to the convict on release amounts to no more than the three dollars of a century ago. The clothes he receives are generally shed at the first pawnbroker's if possible. They have the prison pattern and the uncouth cut. The man who during the period of incarceration has been earning the bitterly ironical sum of one and one-half cents a day, which may be diminished by punishments, is still typical, upon his release, of the folly of discharging the convict so poorly equipped with money as to make the very presence of money in the possession of others a temptation to crime. It is only in states where a system of labor prevails that secures for the prisoner a chance to earn, if not a wage, at least some money for overtime work, that the prisoner is freed in part from this grave condition on his release from prison."

Many, in fact, most prisons give the discharged convict the pittance of five, ten or fifteen dollars, a ticket to some place to which he does not want to go, a suit of clothes easily recognized as belonging to an "ex-con," and the necessity of living a lie if he succeeds in getting a start in life. Some

institutions do not furnish a new suit, but compel a discharged convict to go out into the streets wearing the same suit he wore years before, an old suit plainly stamping him as a vagrant. Some prisons, however, permit the men to work at odd times on silk ties, silver buckles, bead ornaments or other remunerative employment providing an opportunity to earn a small fund for use in that dark day of discouragement.

22. *An Example of Public Attitude.*—The abject heartlessness of the law and society in providing for the readaptation of the paroled prisoner to free life is illustrated in the following incident: Bert W—— had spent five years in a Pennsylvania penitentiary during which time he had performed a great amount of hard work with no pay and was turned out at the front gate with the pittance of ten dollars to pay his railroad fare to New York City and with the customary good advice concerning his deportment. After he had been in that great city a few weeks, he wrote the following letter:

"Mr. Superintendent:

"I suppose by now you are wondering how I am progressing in my new chance to go straight and clean. Well, so far I've found it a rather difficult proposition to get started. I have adopted the policy of laying myself open to everyone I apply to for work. I desire to find out and satisfy myself just how much chance society will give a man to come back. So far, I've met with a rather tough setback. I have applied to ten big firms for employment, and of course they asked for reference, and I had none and told them frankly I was just home from prison, and wanted a chance to make good. 'Nothing doing.'

"One big man (big physically and financially, but very small in principle and brotherly love) said: 'Mr. W——, just explain to me what caused all your trouble.' I gave him a brief history of my life, and then gave him a broad

outline of my plans for the future, and how I expected to make my fight a real successful one. He questioned point blank, 'What can you do, Mr. W——?' I answered, 'I can do anything any other intelligent man can do. I am perfectly willing to burn plenty of midnight oil to learn and know your business, if you can find a place for me.' Well, he sidestepped the issue by claiming that my presence in his organization—if found out—would cause a very bad effect upon his other employees. I shot right back with 'I would not think of accepting a position with your company unless I could enter it on an equal footing with others. That is the reason I have been so frank in laying my past before you, and in case I should fall down, you have a greater hold on me than you have on any other man in your organization—my bad name, my record—a man who has no chance to escape the penalty of a wrong act. I do not have to gain your confidence or the confidence of any man to further my ends as a thief.'

"It is very fine of the people to say that the world beckons you to come forth from prison and make good; but when you start out to do so, and when you come face to face with the real situation, the very ones who profess to go out of their way to help fallen men back into the ways of clean living, are not there; they will not do it. They will give money as charity—I had offers of it in abundance—but I will not accept charity from any of them. All I want is a chance to prove myself capable of earning my own living. In the meantime I am thankful to say I have been able to secure some odd jobs to keep the wolf from the door, but I will never stop until I find the chance I am seeking."

There you are—a blighted reputation, the only pay for five years' hard work; no chance to make good, and nothing but pauperizing charity to put you on your feet—what are you to do? Some say, "It is no use" and go back to

crime. We sincerely hope our ambitious young friend keeps his courage and finds the open door to success.

23. *Prisoners' Aid and Private Relief.*—Prisoners' aid associations sometimes meet this need by finding employment and guidance for discharged prisoners over the turbulent river just outside the prison gates. Some charitably disposed individuals furnish money for temporary subsistence, but should a great wealthy state permit the pauperizing of its ex-convicts by gratuities? If an institution had ever so effective reformative activities while the criminal is in prison, the influence of which extends just to its gates, the uplifting efforts would, in many cases, be lost. A climb up the golden stairs to the peak of reformation and then—a jump into oblivion; result—all previous efforts lost.

24. *Summary.*—Reviewing our arguments for the proper employment and compensation of prisoners, we will add that the chief means a prisoner has of expressing his personality is through his work. There is no influence that tends to stabilize his character more than the regular performance of first class workmanship. The system of work adopted by an institution should be such as would supply the best vocational instruction, elicit the greatest possible interest of the worker and supply the means of proper remuneration for his efforts. It should also be conditioned that such funds be expended under the direction of trained parole agents and social service workers for the well being of his dependents and his own welfare after his release into free life.

CHAPTER VIII

MAINTAINING DISCIPLINE IN PRISON

1. *Inhuman Practices the Reflection of Public Attitude.* —There is no place in the annals of history in which "Man's Inhumanity to Man" finds a more complete expression than in the administration of discipline in penal institutions through the dark past. The fundamental attitude commonly accepted by society, that the individual who has transgressed the laws of the land has forfeited his personal rights, and that he must be severely punished as an example to other offenders, has provided unstinted authority to the jailer to inflict nameless cruelties upon his prisoners. Up to very recent years the criminal was given little humane consideration. After the offender had been convicted and committed to the custody of the official torturer, society had no interest in him except that of morbid curiosity and hatred. The keeper was free to perpetrate any kind of atrocity behind the dismal walls, without fear of public interference or sympathy. The criminal was regarded as practically dead and forgotten; remembered only as a despised enemy; suffering an ostracism similar to banishment or to the death penalty, because it was administered in the same spirit. Generally speaking, the object of all primitive punishment was to get rid of the enemy who had aroused public fear and indignation.

Dr. White says:—"It was but natural that the criminal, under such a system, should be considered as an anti-social individual, perhaps even as hardly human, and that his incarceration should be effected along the lines of least resist-

ance, which meant, in the minds of the ignorant officials maximum measures of repression."[1]

2. *Effects of Discipline by Physical Force.*—It would present a morose picture of horrors to describe the numerous and despicable methods of discipline formerly employed by the heads of some of our penal institutions. The only method they knew was physical force. They knew little or nothing about the mental reaction of their charges and they placed the entire population upon the same mental and moral level. Rigid, compulsory conformity to the rules resulted in destroying all of the good and developed nothing but the bad. Their system of harshness penetrated into the very souls of the inmates, and discouraged any attempt at decent living and healthful thoughts. Their golden rule was: "If one prisoner breaks a rule, all must pay." Such regimen is hard on the struggling soul trying to do better. Stinging and smarting under injustice, the victim broods and loses hope, until he finally stops all efforts to advance along good lines and takes pride in clandestinely breaking every rule he can. This stolid and deceptive attitude on the part of the inmate in no way bothers the management. The officials are concerned only with the idea of impressing their slaves that they have been consigned to custodial care for purpose of punishment. The tightening down of the "lid" by increasingly restrictive rules, and the consequent antagonism of prisoners to them, accounts for the origin of the appellation "screw" derisively employed by prisoners in speaking of subordinate officers. These "screws" were the instruments by means of which the "lid was clamped down" and restrictions were enforced.

3. *Cruelties of Yesterday and Today.*—It has been less than a generation in American prisons since violations of prison rules were punished by cruelties, not as spectacular nor fatal perhaps, but almost as severe, as some methods of

[1] *Insanity and the Criminal Law*, p. 214.

the dark ages. Scattered relics of these barbarities are still extant in a few prisons. A few years ago a common method of punishment was to tie the thumbs of the victim together and to draw him up with a rope until his toes bore only a fractional weight of the body. He was left in this position for many hours, and when taken down sometimes completely collapsed. The scourge is not yet entirely abolished. The man to be punished bares his back and is lashed with a thong of leather until his flesh is lacerated and blackened. Lashing is practiced today more than is commonly known. Clubbing for some slight infraction of the rules is still tolerated by some backward communities. Permitting officers personally to administer discipline by pommeling with the fists is carried on behind the grim gray walls of a few of our penal institutions, unknown to the public and unchallenged by public opinion. The bloodhound is used in some southern institutions to track escapes, and in many institutions, subordinate officers are permitted to curse and humiliate those who violate minor rules. A few months ago the writer, while visiting a prominent institution, saw two prisoners who had attempted to escape standing with hands extended through the strong bars of an isolation cage and chained together with handcuffs. They were compelled to stand in that position during work hours, until they should receive what their keeper considered "enough." Some prisons still maintain solitary cells with semi-circular grilled doors hinged behind solid steel doors between which the culprit is compelled to stand for many hours with no opportunity to change his position from the upright. Placing prisoners in the dungeon for days at a time, with the cement floor for a bed, on a diet of bread and water is still practiced to a small extent. The hickory club is rapidly becoming taboo through a more humane and intelligent public sentiment. You will seldom find a prison today which dresses convicts in stripes; and shaven heads are

passé. The lock-step which fostered self abasement and destroyed initiative is gone forever. The system of silence, which was never quite silent, is now recognized as degenerating and unnecessary, and has been replaced by educational activities fostering self-expression and mental development. Poor food of yesterday which sometimes amounted to filthy, unhealthy, bug-infested slop, is replaced by a well balanced ration of nourishing food, scientifically calculated to build up the wasted brawn and brain of the patient.

4. *The Origin of Stringent Regulations.*—The rules of conduct in a penal institution are interesting in their evolution. Every warden recognizes that certain restrictions must be made for the safe custody of the inmates, and the safety of his officers, as well as for the general welfare of the entire population. The institution is constructed as securely as possible; where it lacks in security, it must be strengthened; wherever there is a possible weakness, the physical loophole must be made safe by more careful guarding. There is a popular belief that all convicts are more or less dangerous characters, capable of reckless and even murderous deportment. This fear has been shared by many sincere but inexperienced keepers. The convict's desperate tendencies had to be circumvented and the lock-step was the result. When some prisoners sawed their way through the bars to freedom, it was found necessary to install grills of chilled steel and to equip cells with locking devices which could not be picked. When a warden discovered that some of his men had escaped and disguised their absence by placing dummies in their beds to make it appear that they were present at the time of count, while they were making good their escape, it was found necessary to require all of his men to stand at their cell doors while being counted, and this rule was ever afterwards strictly enforced. Inter-communication of prisoners, at some time in the past, made it possible for a large group of them to band

against their keepers, and the silent system was inaugurated. It was found difficult to identify an escaped prisoner mingling among outside workmen, after which all the prisoners were dressed in stripes and had their heads shaven.

Enter a new warden knowing nothing about prison management except the customs and rules handed down to him by his predecessors. Some prisoner found a way to evade these stigmatic restrictions and another repression was placed upon the population. Each successive warden found it necessary to add other restrictive safe-guards, which were foisted upon all the prisoners, the good and bad alike. Soon the entire régime of the institution was narrowed down until the prisoners were merely automatons, arising at the sound of a discordant gong in the morning, standing at the door until counted, marching to meals in lock-step, maintaining strict silence, not being able to speak at any time, filing to their work in the same listless manner, marching to their cells to be counted and then to lunch; back to work and then to their cells, until the startling gong clanged for them to retire at night. All of this outlandish, mechanical performance constituted their day's existence, week in and week out, through a long period of incarceration. Disheartened, atrophied, discouraged, their time wore on—each year a lifetime, each day a year, until their miserable sentences expired.

5. *Examples of the Narrowing of Privileges.*—One bright summer morning a family, consisting of father, mother and two or three children, drove up to the office of a Pennsylvania institution and requested the privilege to visit the eldest son, who was an inmate. It had been the custom of the superintendent to permit such visits to be held in a beautiful grove a short distance from the office, and when he thought the visitors could be trusted, he did not supervise them. This occasion was no exception; the parents

and children were granted the privilege of spending the day in the grove together. At noon, lunch was spread and all partook of a picnic dinner, apparently laughing and talking as a well behaved family is supposed to do on such an occasion. Occasionally the officer in charge would take a look in that direction, assure himself that all was well, and continue his employment at another task—the family was sitting on the sward, walking about or playing ball. Comparatively little attention was paid to the party until the five o'clock whistle blew, and the officer saw that the family had departed. The boy was standing at the fence apparently gazing down the road in the direction the parents had taken. After waiting a reasonable time for his ward to start toward the building, the officer attempted to gain his attention by whistling. He beckoned and shouted, but the boy stood still, and heeded not the signals. Finally approaching the forest and the silent figure, he learned that he had been trying to attract the attention of a dummy. The family had stuffed the prisoner's uniform with leaves and sticks, dressed him in a suit they brought for the purpose and made away with him. A long and diligent search located him in California, but the family has never been located.

Beginning with this embarrassing experience, it was ever afterward regarded necessary to have an officer in close supervision over every visit. It is safe to say that if no prisoner had ever escaped, the state would now construct prisons without high walls and strong bars, and less strict supervision would be given them. This is a concrete example of the capricious manner in which stringent rules and repressions have accumulated. Packages are permitted to be delivered to the inmates, until some foolish person takes advantage of the privilege and smuggles in drugs, intoxicants, or a weapon. The concession is then withdrawn for all alike.

6. *Entire Population Should Not Suffer for the Sins of*

a Few.—Because five out of a thousand abuse the privilege of speech it is not desirable that 995 should be treated by a standard set for the negligible minority. It is certain that they should not be deprived of the exercise of speech, that human faculty which, more than any other, distinguishes man from the brute.

The writer learned this tendency and the injustice of it early in his managerial experience. He sought to establish a system of securing the co-operation of all the prisoners by building up a morale which would automatically eliminate the necessity for individual punishment. He, at first, began by depriving the entire population of privileges which were abused by few. In that prison men were permitted to use tobacco in any form as long as they did not indulge in the cigarette habit. The barring of cigarettes was due to the fact that discarded burning stubs create a fire hazard and that the governing board was prejudiced against the cigarette habit. After several violations of this rule, the superintendent spoke to the men, making an urgent request that the population as a whole organize against the use of cigarettes, and later, when a few persisted, he spoke to them again, telling them that if they did not stop cigarette smoking the privilege of using tobacco in any form would be denied. The men received the announcement charitably and endeavored to render such action unnecessary. This worked fairly well for a while during which time the population kept changing. In a few months, however, violations became so common that the superintendent announced that he was compelled to be true to his word, and that tobacco was henceforth banned from the institution. The men were much disconcerted by the announcement but stoically essayed to do without their customary smokes. Much suffering was caused by this order. Individual prisoners made strong pleas and wrote letters to the superintendent requesting that tobacco be restored; committees

waited on him, presenting petitions, and finally, one dormitory unit drafted the following facetious letter:

"Dear Superintendent:

"We, the undersigned members of Ward 'A,' recognizing you as our guide and mentor, do humbly petition your honorable person to restore to us the privilege of using tobacco. We sincerely deprecate and lament that any of our number has violated your very just and humane administration and do hereby, one and all, solemnly promise to respect and keep the tenets of your wise executive authority. Numbers 16-22: 'And they all fell upon their faces, and said, O' God of spirits, of all flesh, shall one man sin, and wilt thou be wroth with the whole congregation?' "

Overlooking their cunning appeal to his vanity, the superintendent recognized the logic of their position as viewed from the standpoint of the prisoner, and anxious to learn the truth from any source, restored tobacco, thus winning the co-operation of all the best thinking prisoners, in securing conformity to the rules.

The result followed that a higher morale was established, and the superintendent had a lesson which has been useful to him throughout his subsequent career.

7. *Degradation Not the Object of Discipline.*—Wardens of today recognize their duty of salvaging derelict men for future social usefulness. The difference is that the offender is now regarded as a "prisoner of hope." The disciplinarian who cannot so esteem him is not fit for his job. However degraded and mean a man may be and however dastardly his crime, there is somewhere in his being a spark of amiability, which if fanned by the breath of human kindness, may be kindled into a brilliant flame of devotion and service. To degrade and humiliate a prisoner before his fellows, confirms him in his anti-social proclivities and sends him back into the world an enemy of society. Modern disciplinarians employ methods appealing to the higher

qualities of their prisoners. Rewards for good behavior, with an opportunity to advance in popular favor, elicit the co-operation of the prisoner and inculcate habits of industry, obedience and devotion to the higher ideals of life.

8. *The Destructive Influence of Fear.*—Instances are by no means rare of men convicted of minor offenses, cowed by fear while in prison and temporarily subdued under a harsh régime, who immediately reverted to desperate behavior after passing from the bars into free life. Under this character of punishment, fear was the motivating principle upon which all regulation was maintained and administered. Rigid conformity to strict rules was enforced through the element of fear—fear of the prisoner on the part of the keeper, and fear of the keeper on the part of the prisoner. The psychology of these inhumanities has been handed down almost to the present era, and will be used as long as public opinion holds that intimidation is the motivating incentive in punishment for criminality. Fear is the direct antithesis of courage—the earmark of cowardice.

G. Stanley Hall has appropriately said: "Fear profoundly affects appetite, hunger and every digestive, alimentary, nutritive and excremental process, the secretion of probably all glands, circulation with its attendant thermal changes, the *vita sexualis,* muscle tension and hence all voluntary and involuntary movements. It influences the function of every sense, stimulates or impedes thought and will, intensifies or even paralyzes all activity and even consciousness itself. It may disorganize all usual co-ordinations and adaptations to the environment . . . Timorous creatures sneak, skulk, hide and may become nocturnal, subterranean and fugitive in their habits, cowardly and deceptive in deed and word. Fearsomeness, too, stimulates the imagination to create fictive objects of dread and terror and much of the great body of degrading superstition is its product, and panics of this weird infection make the soul mad with

baseless, craven horror. Fear invades sleep and shapes dreams which are the very opposite of wish fulfillment. . . . Much of the work of science has been to expel baseless and superstitious fears and to teach men to fear aright.

"Finally, now with all this complex and varied mechanism of fear so well developed, as it had been originally by the emotion itself, fear that is prevented from using its own organs is often exhaustive to the point of danger. Caged animals, terrified, but unable to fly or fight, show more depleted brain cells than those that can react normally, so that some have thought that emotion was inversely as motion from which it sprang. To have the blood flushed with secretions from the thyroids, adrenals and liver, to have it charged with oxygen and at the highest pressure, the heart throbbing, respiration rapid, and yet to be able to do nothing definite, may be perilous, and at any rate is wearing like running the machinery of an auto with the throttle thrust forward."[1]

James confirms this teaching—"Many of the manifestations of fear must be regarded as pathological rather than useful . . . A certain amount of timidity obviously adapts us to the world we live in, but the fear paroxysm is surely altogether harmful to him who is its prey."[2]

9. *Social Instincts and Deportment.*—It is now more generally recognized that the social instincts of men must be taken into account. The deportment of the average man is gauged largely by his desire to stand high in the opinion of his fellows. That social approvals have much to do with the acts of the individual is a fact that should be of the greatest utilitarian interest to the man responsible for the conduct of men who have made a false step, and are in his custody for improvement.

[1] *The American Journal of Psychology,* Vol. XXV, No. 2, April, 1914.

[2] *Psychology,* Vol. II, p. 419.

10. *Compared with Child Training.*—Modern prison reform is beginning to evaluate the disciplinary régime upon the basis of fundamental motives responsible for the misbehavior of the individual recalcitrant. John Watson, in his studies of infants, finds that one of the fundamental emotional reactions displayed at birth is rage. The first stimulus which arouses this emotion is caused by someone holding the child's limbs or restricting his free bodily movements. The type of stimulus becomes more and more inclusive as the child develops, until finally not only thwarted physical activity and interference causes rage, but also mental and social interference produces the same effect. This is shown most clearly in the discipline of children by adults, where social control has not yet so effectively prevented the open display of rage as it has in most other social contacts. The adult punishes the child, as a rule, for acts which in some way interfere with the adult's sense of well-being and not from the point of view of the child's motive. The emotion results in an act of physical violence to the child. The reason for the punishment is not made clear. The child takes on the emotion of rage which is expressed by the adult, and instead of a wholesome desire to do better being developed in the child through love for the parent and the desire to please, the repetition of the act is prevented only by fear. This repressed emotion of rage which has no way to express itself becomes a feeling of secret hatred. The parent places the emphasis upon punishment and not upon developing the child along right lines of behavior. Consequently the child avoids transgressing from fear of punishment rather than from the desire to do what is right.

11. *Personal Needs the Determining Factor.*—Present-day ideas of child discipline change this emphasis to its rightful place: In a case of wrong-doing, the first step is an analysis of the child's motives with an intelligent effort to make clear to the child what these motives were. Then the

punishment should be, whenever possible, a logical outcome of the act committed by the child, with a full understanding on the part of the child why it is administered. The intensity of the punishment should not be determined by the enormity of the offense but by the child's individual needs in the way of teaching him why such acts should not be committed. The behavior of the child should be regulated by what is desirable for himself and his relationship to others and not by how much he happens to disturb an irritable, nervous adult. The child is a reasoning individual, capable of being taught logical sequences. Why, then, should he be expected to draw logical conclusions from inconsistent punishments? Many adults are so unthinking as to have only one or two forms of punishment which are administered without much explanation to the child as to reasons why they are administered. In many cases they are totally disproportionate to the needs of the child. If such unreasoning blanket punishment is wrong in the case of the child, how much more so is it wrong and ineffective in the case of the reasoning adult who has much better developed powers of analysis.

The principle also applies in the application of the law to the criminal. The attitude of the public toward the lawbreaker is analogous to the attitude of the primitive-minded parent toward his child. Blanket punishments are the rule; analysis of motive is omitted from the law, and this individuality of the criminal is acknowledged only by the possibility of an indeterminate sentence. Crimes are those acts which interfere with the welfare and happiness of others. A man is allowed to have free control of his own body as long as such freedom does not encroach upon the rights of others. When a crime is committed, the public expresses its rage by a demand for revenge and not for the correction of the ideas of the man committing the crime. About the only crime which is punished by a logi-

cal sequence of cause and effect is murder with capital punishment, and in this case it is of no practical use, because the man punished does not survive to show whether he has reformed or not.

12. *The Negative Appeal Results in a Negative Effect.*—A prison rule is nearly always based upon the negative appeal. The psychology of "Don't" is depressing and discouraging. It is the wrong appeal to a growing soul. It tends to atrophy the finer qualities of the man who is subjected to its influences. The "don't" is the wall which challenges the prisoner to act contradictorily. The fewer "don'ts" in the rules, the higher the morale—the better the discipline—the higher the refining, co-operative spirit.

13. *The Value of a High Morale.*—Whenever there is a mutual feeling of genuine trust enkindled by an effort at co-operation and square dealing on the part of the keeper and prisoner, an *esprit de corps* is engendered, enlisting the entire prison population in the preservation of good deportment for the mutual welfare of all parties concerned. In the large dormitory of a certain prison in which the atmosphere had changed from depression to greater freedom because of the attitude of a more modern disciplinarian, an obstreperous prisoner continued a line of misconduct, which under the former régime he had succeeded in doing many times without detection. After the new morale officer had demonstrated his humane attitude to the satisfaction of the prisoners, a group of men approached the violator and remonstrated with him because he did not respect the wishes of the disciplinarian, calling his attention to the numerous improvements under the new régime. This suasion kept the prisoner in line for a few weeks, and he then forgot himself and broke the rules again. This time three burly athletes approached him with the ultimatum:

"We're not going to have any fool around this joint throwing down the first man that ever treated us white.

You've got to keep the rules, or you'll hear from us! D'ye get me?"

He did, and order was kept with little effort on part of the disciplinarian, except to retain the reputation among the men that he was their friend. Many a quarrel, fight, or escape which might have resulted disastrously has been thwarted by loyalty and respect for the men in charge. How much better is discipline, obtained in this manner, than through force and cruelty.

A well known prison warden was one day sitting at his desk, when a prisoner with a life sentence came in and said: "Warden, you have been so square with me and have treated me so well since you have been in charge of this prison that I want to warn you of my intention to escape. I have a revolver, ninety dollars, and a suit of clothes and everything ready for my 'get-away.' I want to tell you so that you can put on extra guards and then you will not be blamed, because I do not want to bring criticism upon you."

"When are you going to escape?" said the warden.

"Well, I cannot tell you, because you would stop me from going."

"All right," said the warden. "You have ninety dollars and a revolver and a suit of clothes, everything ready for your escape. Let us do the thing up right. I have an automobile out in front of the office which you can take and get to the station so that you can make your escape certain."

"Hell," said the man, "who could run away from such a man as you?"

14. *Rules Are for the Protection of the Entire Population.*—A well organized constructive régime needs but few rules. These should be constructive and based upon the best interests of the community. Their reasons should be apparent to the men in custody. The inmates, for instance, should know that the reason they are not permitted to carry knives is for their own preservation. There is a

certain amount of foolish bravado engendered by the possession of a knife in the hands of an inmate; the least quarrel is likely to develop into a duel and the duel is liable to develop into general mob violence. The fight starts—no one knows how, but the results are disastrous. The inmates can be shown that with equal propriety and reason they might be allowed the use of revolvers, the possession of which would make life unendurable to all of them and result in murder. Gambling is prohibited because it is a criminal practice, resulting in embroilments and encouraging criminal tendencies. This should be made plain to the men, and their co-operation will be enlisted to prohibit the practice. To escape brings reproach upon the trustworthiness of prisoners in general. The men should be shown that they cannot violate this rule without precipitating embarrassment upon their fellows. There must be rules, but they should represent only such restrictions as will react to the welfare of the whole community and must be based upon justice to all. These regulations cannot be overlooked. Even the outside communities have police, jails, courts, and prisons which are positively necessary.

15. *Divestment of Privileges vs. Corporal Punishment.*—Corporal punishment appeals only to the physical. If the institution conducts certain forms of recreation such as ball playing, moving pictures, and entertainments, to deprive the individual offender from participating in these diversions for a few days is generally sufficient. Depriving a violator from these highly valued privileges is a method which appeals to his intelligence and usually bears good results. The period of deprivation should depend upon the character of the individual and the enormity of his offense. Since the recreational period is so highly valued by the men who spend considerable portions of their time in their cells, and at work in the workshop, a limited deprivation from these enjoyments is very beneficial in maintaining order. The

average young gamin of the streets has been brought up to hard knocks; his rough life is accustomed to physical pain. It has been a part of his life to administer brutality, and physical pain appeals only to the brutal part of his nature. The appeal should be to the intellectual and emotional side of his personality. A period of isolation provides an opportunity for him to think quietly and furnishes an incentive for him to strive diligently to earn the privileges, which is a step in the right direction of mental development, essential to his reformation.

16. *Character and Problem of Malcontents.*—This assertion is made with a full knowledge that there are certain institutionalized characters in every prison who spend most of their waking hours in efforts to beat the "game," no matter what it is. These characters are quickly sensed by the experienced warden within a few hours after he takes his position. They are usually the first to approach him with special requests. There are some fellows who try to agitate trouble among the other inmates. They know exactly how to take advantage of any kindheartedness extended to the inmates as a whole. The employment and living quarters of these fellows should be separate and distinct from those of the quiet, unostentatious men who are trying hard to make conditions tolerable and who desire to do their time as quietly and quickly as possible. These men are well known and secretly despised by the higher grades of men, but they are often leaders among the lower types of intelligence.

17. *Firm Handling Necessary.*—The only safe way to handle these malcontents is to treat them firmly but justly —to give them just what they earn and no more. They are the first to demand a "square deal" and the last to give a "square deal." The psychiatrist finds in them his most complex studies. The majority of them will go out into the world to commit further depredations, and care little about

getting caught. They have no fear of prison and are not susceptible to the refining influences instituted for their improvement. Most of them are graduates of juvenile institutions and have served time in other prisons for adults. The public hears more about this class than any other, because they are the men who often get themselves into difficulty in prison, imagine that they are mistreated, and seek various ways of gaining the ear of a sympathizing public. The better classes of prisoners should not be permitted to mingle with them, because they are the characters who contort the reformatory into a school of crime. They are the fellows who boast of their exploits in crime, and make criminal adventures seem attractive to the younger offenders. We have known many of these fellows, however, who were taught to respect the law and to live good lives by proper segregational treatment; but they are the bane of the dormitory or congregate type of prison.

18. *Proper Disciplinarian and System Necessary.*—It is not to be inferred, therefore, that there should be no disciplinary measures employed to enforce obedience. Every organization must maintain strict compliance with certain regulations necessary for the ultimate welfare of the whole community; and there must be some one authorized to enforce strict compliance to those regulations. There must be a disciplinary head whose word is the law. Prisoners must never be allowed to think that they can run any part of the institution or abuse any privileges to the detriment of the other inmates. Most of the riots and uprisings in prisons have occurred because of a gradual departure from this principle.

19. *Proper Place of Isolation.*—There must be a jail or place of isolation in a prison, just as in a free community. It will be necessary at times to isolate incorrigible men for the protection of the community. An isolation cell should be light, dry and well ventilated, but so located as to bar

its occupant from any communication with other prisoners. It thus becomes a place of meditation and repentance. It is an advantage to locate the isolation department so that the shouts and laughter of the other inmates who are at recreation can be heard, but so far removed and so located that the other inmates cannot be seen. There should be no privileges of any character, such as tobacco, letter writing, or reading during isolation and no more contact with the keeper than is necessary to provide food and other necessities. The food should be limited, but sufficient to maintain the health of the prisoner. Strict sanitation of the cell and person of the prisoner is essential. Removal from isolation will depend upon the attitude and repentance of the prisoner. A few days of this silent, firm, but humane kind of treatment is sufficient to convince the most stubborn offender that he was wrong. I have never known a case which was treated in this manner where the prisoner seemed to hold any subsequent resentment against the disciplinarian, but rather in every case, the prisoner respected the man who had demonstrated to him, in a humane manner, that he was out of harmony with good government.

20. *Concerted Obstinacy Quelled.*—At one time in the Detroit House of Correction a large group of men banded together and refused to work in the factory unless the disciplinarian would grant certain privileges, which he could not allow. When they stopped working, the disciplinarian ordered the machinery stopped and gave the signal for everybody to fall in line. They all obeyed to the man. He marched them to their cells and locked the doors. The doors of their cells did not open again, except to pass in food and to keep the cells sanitary, until they opened, one by one, a few days later, to permit some very penitent men to return to their work. There were no further demands made by that group. Several leaders, who were exceedingly stubborn, were transferred to the solitary department where

they remained several days in silent treatment. When they were released they were as willing to do their part as were their fellows, and no more trouble was experienced with them.

21. *Multiform Responsibility of a Prison Community.* —It must be remembered that a penal institution is a separate and distinct community from the larger community by which it is maintained, encountering all the difficulties incident to the maintenance of order as in the larger community. A prison population of two thousand is beset with more complex problems than will be found in any little city of equal population. The warden of the institution is charged with the responsibility of maintaining their health, food, clothing and shelter, providing an occupation for them with proper compensation, supervising their deportment, and many other obligations, to which the mayor of a city of like size would never have to give the slightest consideration.

To maintain constant decorum and rigid conformity to the rules of conduct among a large mass of men who have been selected from the community, because of demonstrated criminal personality, is no small task. A portion of the men sent to a penal institution have an abnormal, but secret antipathy to law and order. In the back of their heads, if not openly expressed, they have a grudge against the police, the judge, the institution, and state which have caused them so much inconvenience; while on the other hand, there are many who recognize that they have been wrong, or have made a tremendous mistake, and are making the best use of their incarceration to rectify it. There are some who are psychopathic; many who are feeble-minded or borderline cases; others with a fair degree of intelligence but with some mental or moral twist; some professional criminals who have chosen crime as their vocation; some uninstructed and ignorant lads who have been led into wrong; some accidental offenders who have made but one or two mistakes in

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violating the law in their lives. The brunt of maintaining good order and uniformity of operation on the part of this promiscuous group falls upon the disciplinarian. He has a tremendous job.

22. *Character and Ability of the Disciplinarian.*—The disciplinarian is in fact the morale officer; he should be a man of impeccable character, sound judgment and have an inherent knowledge of men. He should know the mental habits, haunts, mentality, temptations, and environment of prisoners and be able to read them like a book. He should be square and just in all his dealings, make no promises that he does not fulfill, nor establish any rules that he does not enforce. He should be able to imagine himself in the position of the prisoners, to have a fellow feeling and sympathy for them and a desire to see every man under his control grow in character and strength. He should know what constitutes a fair day's work and understand how to lead the prisoners to enjoy the work to which they are assigned. He should lead, rather than drive; inspire in the minds of the men a desire to do right for right's sake, and to make the best possible use of that strategic period in which they are paying the penalties for their crimes. This must all be done without bluster or display of violence, but with humane kindness, patience, and adroit reasoning which will tend to impart to them an ambition to co-operate with him for their self-improvement and rehabilitation.

23. *Justice and Impartiality Paramount.*—It is vital that prison discipline be just. The proverbial "square deal" appeals to the criminal's highest ideals of his obligation to society in general. "Honor among thieves" is an expression based upon the fact that this class of men is strongly impressed with the sublime importance of being just with one another. The transference of the idea shifts to the disciplinarian and the officers who have charge of them. To be known as a "square dealer" is to be a popular officer;

to be a popular officer from this standpoint is to be an influential officer. The influential officer has untold opportunities to impress high ideals upon the character of his wards.

24. *Value of Thorough Investigation.*—A prisoner should never be found guilty by the disciplinarian until that official has made every possible effort to discover all the condemnatory and extenuating details connected with the infraction. This is in some cases exceedingly difficult, especially when the word of other prisoners or prejudiced officers must be considered; and every bit of evidence must be weighed carefully before it is accepted. The motives of the man accused must be taken into account, as well as the condition of his mind and his previous deportment. The prisoner must be regarded as innocent until he has been proved guilty and he should always be given the benefit of the doubt.

25. *Informants Detrimental to Morale.*—Stool pigeons, or sycophants, volunteer informants of the prisoners against one another, should not be encouraged. Cunning knaves often take advantage of the disciplinary department to get even with their fellows, to hide their own discrepancies or to gain the approval of the officials for purpose of promotion. The disciplinarian who secures his information from the so-called "rat," is never regarded as a "square dealer." He must have devices of his own of ferreting out misconduct. The prisoners should be encouraged to trust one another, which they will not do if they find that men are punished on secret information of this character. This is of the utmost importance in administering a discipline which is constructive in building up a good organization. A hundred incidents in proof of this fact could be cited by any disciplinarian who has had his heart in the work and confidence in the men he is trying to reform. The secret lies in a personal, confidential contact, with impartial, cool

discernment and forbearance, instead of harshness, snap judgment and impatience.

26. *Individual Treatment Applied in Discipline.*—In the disciplinary department, which is really the court of justice of the community, there is absolute necessity for individual treatment. The disciplinarian must know the prisoners personally, and should have facilities for diagnosing their defects, their abnormalities of mind and character; the disciplinarian should have access to the records of the psychiatrist, physician, shop foreman, social worker, custodian of records and religious director, and should be able to justify his judgments as correlated to the findings of these departments. He should keep a concise record of the work and deportment of the individual, seek to understand all of his handicaps, and thus formulate a comparatively accurate estimate of the probability of the reformation of the man whose destiny is in his keeping. The success of the institution as a reformative agency will hinge upon the proper functioning of the disciplinarian more than any other official. An institution cannot be too careful in his selection, nor in the backing it gives him while he is performing the important task of teaching his men the value of keeping in harmony with the laws of society.

CHAPTER IX

EDUCATION OF THE CRIMINAL A SOCIAL OBLIGATION

1. *Obstacles to Prison Pedagogy.*—The future prison is destined to become an educational institution with systematic equipment to furnish its inmates of all classes with every possible facility for intellectual, physical, industrial and moral culture. To realize this objective is more difficult than is generally understood. A prison population is a heterogeneous group; a composite of almost every conceivable type and grade of mind in various stages of development. There is the infantile and adult mentality; the psychopathic, neurotic and normal; the illiterate, the partly trained and the educated; the degenerate, the immoral and the unmoral with every shade and degree of diversity between them. There has been a tragic failure on the part of the home, the school, the church, industry and every other social agency to adjust the incompetent individual to his proper sphere and to impart to him wholesome principles of right living. The failure is finally shunted on to the prison in one last desperate effort to make him over. Theoretically the church, the school and the college have a clean page, in the mind of a pupil, upon which to make their impressions, but the prison school faces the tremendous task of obliterating many erroneous and corrupt notions before it can secure a clean page upon which to write. It must disillusion its pupils of many false and harmful notions and impart in their stead, wholesome thoughts and purposes, with adequate, practical training and culture to impel them to live a new life. For these reasons the problem of institutional edu-

cation is one of the most difficult pedagogical tasks imaginable.

2. *Education and Correction.*—The great underlying principle in the modern reformatory method is that a large percent of criminals can be corrected, and that reformation is the right of the offender and the duty of the state. Crime is usually the expression of a weakness, mental, moral, physical, or a combination of two or more of them. This weakness, not properly attended to, frequently manifests itself in criminality. However, in making this assertion we do not claim that ignorance and crime are in any sense equivalent; but rather, that by means of increased knowledge of the law, a better understanding of the demands and emoluments of a proper relation to society, the chance of crime is lessened; also through increased skill there is greater opportunity for the educated ex-convict to find remunerative employment, thus facilitating his re-adjustment. No one has been able to show any very definite relation between crime and illiteracy, nor is it possible to prove that an education in letters is efficacious, in itself, to stop criminals from their violations of the law. We very frequently find graduates of colleges and academies in our prisons. A few years ago there were many efforts to show that if the criminal was given a scholastic education he would not commit crime. The Juvenile Reformatories strive to correct the faults of young offenders in this manner, but there are many graduates of our juvenile institutions in our prisons for adults. It is true that there is usually a higher percent of illiterates in our prisons than in the general population, but that may, or may not prove that a scholastic education would reduce the chance for crime. School training is but a modicum of education and may be entirely barren of the principles of character forming.

The United States Census of 1910 shows that 12.8 percent of prisoners were illiterate and that 8.2 percent

of the total population, fifteen years and over, could not read nor write. Mr. Brockway, many years ago, came nearer the crux of the matter, when in summing up all of the untoward conditions prevailing among the prisoners in the Elmira Reformatory at that time, he said: "They are not generally reasonable beings in such sense that rational considerations habitually control their conduct. Sixty-eight percent were on admission practically illiterate; seventy-five percent were without regular and remunerative occupations; ninety-two percent were reared without the benefits of good home surroundings; seventy-five percent were below the average of their class as to susceptibility to ordinary moral motives, and the same ratio not sensitive." [1] The educational program of the prison or reformatory, therefore, must shoulder the responsibility of taking the offender just where it finds him, with all his neglected faculties, weaknesses and defects; and not be satisfied merely to give him a scholastic education, but to bolster him up in all his weak points for future good behavior.

3. *The Criminal a Ward of the State.*—The commission of crime is sufficient warrant for the state to become the ultimate parent or guardian of the offender for the purpose of supplying in him whatever cultural preparation he has failed to obtain. The state has the inherent right to take him into custody and to hold him until such time as his weakness shall have been eliminated and he is able to live a good life. Education is one important factor in the process.

4. *The Irish System the Inspiration of Education in American Reformatories.*—Dr. E. C. Wines and Dr. Theodore Dwight made a recommendation to the State Legislature of New York, January 8, 1867, in which they stated that the Irish System of educational reformation was the

[1] *Reformatory System in the United States,* 1900, Zenos R. Brockway.

best they had studied, and suggested its adoption in New York. The following description was in their report:[1]

"What, then, is the Irish System? In one word, it may be defined as an adult reformatory, where the object is to teach and train the prisoner in such a manner that, on his discharge, he may be able to resist temptation and inclined to lead an upright, worthy life. Reformation, in other words, is made the actual as well as the declared object. This is done by placing the prisoner's fate, as far as possible, in his own hands, by enabling him, through industry and good conduct, to raise himself, step by step, to a position of less restraint; while idleness and bad conduct, on the other hand, keep him in a state of coercion and restraint."

5. *Example of the Elmira Reformatory.*—This was the initial act which led to the establishment of the Elmira Reformatory, the first experiment of this kind in America. The act of the New York Legislature creating Elmira Reformatory was passed in 1869. Z. R. Brockway, first superintendent of that institution, proved to be one of the most aggressive spirits in the advancement of the reformatory idea, and introduced many new methods which since that time have been adopted in prisons in various parts of the world. He is called the "Father of the Indeterminate Sentence." He discovered that there must be incentives to study and application, through the prospect of a shortened sentence and that the reformatory could not be made effective for prisoners serving a fixed sentence. The prisoner who has been chosen as a fit subject for reformatory treatment must be made to feel that the length of his sentence will depend largely upon his demeanor and attainments. The hope of an earlier release is a powerful incentive to impel him to do his best. The indeterminate sentence was the solution. The following are some of the

[1] *Punishment and Reformation,* page 203.

most salient points of the reformatory mode of treatment:

A. *The Indeterminate Sentence.*—The prisoner is committed to the reformatory on an indeterminate sentence and he determines by his own attainments the duration of his sentence. No person, whether he be judge or metaphysician, can tell in the beginning how long this reconstructive process will require. No alienist can foretell, when he commits an insane patient to the asylum, how long it will be necessary to keep him in custody before a cure will be effected; and in this analogy we do not mean to infer that the criminal is always insane. A judge cannot say that a criminal will be cured in one year, two or five years.

B. *Removal of Limitations of Sentence.*—The pure indeterminate sentence is therefore very essential to the reformatory system. Theoretically, the maximum and the minimum of the sentence should be entirely omitted, so that the offender could be held in treatment until he is cured. If he is not curable, he should be held in custody the rest of his life, so as not to be a further menace to society. On the other hand, if at any time it becomes evident that the corrective measures have taken hold of his character and he has been trained to perform a real service in the world, he should be given a chance to demonstrate his reformation in free life, at first on parole and, later on, by an absolute pardon.

C. *Reasons for Diversity of Training.*—The social inadequacies of criminal characters can be roughly grouped into five general classes, especially applicable to the normal and borderline cases, as follows:—

(1) Physical diseases, disabilities and handicaps.
(2) Faulty school training.
(3) Lack of parental and social discipline.
(4) Industrial inefficiency and lack of industrial skill.
(5) Moral stupidity and obtuseness.

Any one of these or a combination of two or more of them is often responsible for the inclination toward criminal behavior. The reformatory curriculum attempts to supply these needs by five lines of training, namely, (1) physical culture, (2) schools of letters, (3) military and disciplinary training, (4) industrial training, and (5) ethical instruction. Under these five heads the educational curriculum of a real reformatory can be classified.

D. *Five Lines of Reformatory Training.*—Since the Elmira Reformatory is the oldest institution of this character and has always been regarded as the model, we will briefly indicate the training administered by it along the five lines above mentioned:—

(1) *Physical Culture.*—On account of early dissipation, habits of indolence, nervous disorders, and congenital bodily ailments, a large proportion of prisoners in every reformatory are found to be in need of physical development, and practically all of the men are subjected to it. Physical culture is regarded as the basis of all other training. Mr. Brockway has said that "approximately ten per cent would remain incorrigible without it." The gymnasium at Elmira covers a space 90′ x 120′. A space 40′ x 80′ is devoted to hot, cold and plunge baths with rooms for massage. The physician immediately assigns the new arrivals to the physical training class. A carefully planned dietary is prescribed for each according to individual needs. These men are closely watched by the physician and physical director, and are measured and weighed from time to time, so that the muscles, formerly neglected, are carefully developed. The Ralston System of culture is employed. From three to four months' exercitation is given. Calisthenic drills usually comprise the first four or five weeks of training. There were more than one hundred in a class I watched, who drilled almost an hour without a command. Their power of attention is thus cultivated,

mental alertness is accentuated and physical force is increased. The physical instructor exhibited a large collection of pictures of these men, taken at the beginning and at the end of the treatment, in all of which marvelous development was indicated, not only of brawn but of facial expression, which seemed to indicate an improvement in character.

(2) *Intellectual Training.*—The school in letters stresses elementary, intermediate and technical class instruction, augmented by lectures on various educational subjects, systematic reading, debates, essays, and discussions of popular and scientific subjects. Many of the prisoners write poems and prose articles for "The Summary," the prison weekly, which is a remarkably clever little paper, edited and published in the reformatory. Charles Dudley Warner once said [1] of "The Summary" that it was the cleanest family newspaper with which he was acquainted. This original work furnishes splendid opportunity for literary development. The subjects taught in the school of letters are reading, writing, arithmetic, spelling, letter writing, language, civics, American history, economics, European history, English and American literature, United States geography, physical geography, citizenship, physiology, and many other cultural subjects. Text books are not used in the class rooms, all academic work being set forth in outline according to the needs of the classes. Examinations are given periodically to determine progress in the studies.

In addition to the principal and his assistants, there are citizen lecturers, and a normal class of the best educated inmates who teach most of the classes. These inmate teachers make use of their tutoring as a personal means of culture and advancement.

The library is composed of 6000 volumes, and the circulation for the past year was 86,000. The books have been selected with the greatest care, and the inmates usually show

[1] *Reformatory System in the United States,* 1900, p. 58.

good taste in their choice of reading. They take great delight in discussing educational and philosophical topics. The question of popular discussion when I was there was "whether education is from within or from without." This also spontaneously became the current theme of conversation at the dining table of the first or highest grade.

(3) *Disciplinary Training.*—The disciplinary training at Elmira is in charge of the disciplinary officer. As long as the prisoner remains in custody at Elmira, he is subjected every moment to the most thorough rules of discipline. He is part of a great machine and is expected to perform his little part regularly and promptly. It is inferred that his previous life has been one of shiftless and lawless freedom. He has never before been compelled to respect law and order. His first lessons are in the art of obedience and observance of the rights of others. Every service he performs must be done systematically. His room must be kept tidy. Everything he uses must be kept in its proper place. His face and hands must be clean, his hair combed, his clothes properly buttoned and kept neat and shoes shined to perfection. He must march to school, meals, and work, and must give perfect attention to the routine at all times. He is a unit in a great military routine, and subjects himself to serious inconvenience if he transgresses the disciplinary regulations.

The assistant superintendent explains to each new comer the reasons for his sentence to the reformatory, the course of treatment to which he is to be subjected, the maximum limit of his imprisonment and the conditions under which he may shorten his term. A printed copy of rules is given him and he is informed that everything he receives, except his first equipment, will be charged against him. He is given credit for each day he works and fined for each infraction of the rules. There are major and minor offenses. The minor offenses are punished with a fine of twenty-five cents,

and the major offenses are punished by a fine of from one to twenty-five dollars.

The discipline of the institution, the prevention of escape, the preservation of order, and enforcement of rules are placed under the direction of the disciplinary officer who examines all inmates charged with violations. The prisoner may introduce evidence and make a defense. He is protected from abuse or undue severity, and every effort is made to inpress him with the necessity of government and the supremacy of the law.

A notice or bill for all demerit charges is given the prisoner promptly, and a statement of his account is rendered monthly. Thus the prisoner is constantly informed of his standing and his progress toward release. The system of grading thus becomes a part of the discipline. The inmates are separated into three divisions known as the first grade, the second (or intermediate) grade and the third grade. Upon reception the inmate is placed in the intermediate grade, from which by good conduct and diligence he may earn promotion to the first grade; or, by reason of bad conduct, he may demote himself to the third or lowest grade. Each grade has its order of privileges, the third being entirely segregated from the rest of the prison population. To get out of third grade the prisoner must maintain a perfect record for thirty days. There were 48 in this grade when I visited the institution. Promotion from the second to the first grade is not possible until the inmate has been in the second grade at least six months with a perfect record. Another perfect period of six months must be spent in the first grade before the inmate is considered eligible for a hearing for parole. About 90 percent of the prison body takes part in the military exercises. On Monday, Tuesday and Friday mornings the military exercises include calisthenics, the manual of arms in mass and in regimental formations. These exercises are performed in

cadence with the music of the military band. The setting up drill is made up of five hundred and twelve motions. The silent manual calls for forty-three changes of the piece without command, which is done in perfect unison. On Wednesday and Saturday afternoons there is given a military dress parade. These exercises, varied as they are, tend to exact of the prisoner a certain amount of mental and physical effort in order to measure up to the regimental standard of merit.

Through the military exercises, timed to the cadence and rhythm of marshal music, a perfection of mental co-ordination is acquired. Habits of manly carriage, personal cleanliness and neatness, obedience to authority, concentration of thought and attention are imparted by the rigid military régime which have much to do with the future deportment, application and success of men who have formerly given little attention to the demands of society for real manliness. An observer of the setting-up exercises, the battalion formation and silent manual of arms conducted without a break, is deeply impressed with the possibilities of the military training for its power of adjustment to the rigid demands of social life in the community. The regulation of the reformatory population is so perfectly organized that in a few moments the entire prison body can be transformed from an industrial community into an army of well drilled men, 1077 strong, and again from military formation to community activities in an equal space of time.

(4) *Industrial Training.*—The aim of the Elmira institution is to send no man out who is not able to do at least some one thing well enough to obtain a livelihood for himself, so that he will not again be tempted to resort to fraud and deception. There are twenty-nine trades taught at Elmira, in each of which systematic instruction is given at least twelve hours per week. When a man is admitted to the institution he is assigned to learn the trade for which he

seems best adapted. Accuracy is required in every article manufactured, or work performed. No slip-shod construction is accepted. The pupil is graded upon his skill and acquirements from time to time. If a wall is not plumb, the instructor tears it down and requires him to rebuild it.

The labor of the inmate is not employed for profit except in a small way in the manufacture of clothing, printing and some other small industrial activities, the products of which are used in Elmira and other state institutions. The labor is instructive in such trades as building houses of stone, brick and wood, complete from cellar to garret, with gas fitting, plumbing, tinning and hardwood finishing. Mechanics, electrical engineering, farming, dairying, and various other skilled trades are taught with the same high degree of instruction and apprenticeship.

Special instruction is given in mechanical drawing and the preparation of blue prints. When the student has worked at his trade a specified number of hours, he is examined in regard to the quality of his work and knowledge of the subject, and if these prove satisfactory, he is passed to the next higher period or outline. When he has succeeded in passing all the requirements of his trade he is graduated, and may then be employed in making repairs, doing new work requiring skill, or as an assistant instructor.

(5) *Religious and Moral Instruction.*—Most criminals have distorted ideas of right and wrong which are possibly largely responsible for their crooked lives. There is no better opportunity to straighten these lives than that afforded them while they are serving their reformatory sentences. A class in ethics established early in the history of the institution was first taught by Chas. A. Collins, then a practicing attorney in Elmira, afterward resident law professor at Cornell University. The course of lectures opened with an inquiry into "man's place in nature and society," and was pursued through themes of social organization, revenge,

forgiveness, the relation of man to his fellows, social forces, retribution, etc. The main questions were presented from strictly intellectual, non-religious points of view; however, the religious inferences naturally suggested were not ignored, though never intruded, and the endeavor was made to reach the truth through discussions by members of the audience. The class rapidly became popular, and is still maintained under the guidance of the Educational Director.

The religious services are conducted by three chaplains, Protestant, Catholic and Hebrew. Each denomination has its regular hours for services and these meetings are well attended. By lectures, preaching, Sunday school, by discussions and other means of spiritual instruction, they seek to guide the newly awakened conscience of the prisoners into habits of honest living.

E. *Grading and Promoting.*—Prisoners in a reformatory are graded and promoted according to their merits. The rank of a prisoner is indicated by a badge, uniform, insignia, better food, greater freedom, and many other distinguishing marks to raise him above the thriftless and incorrigible. It impresses the young criminal that it pays to do good. The mark system is sometimes used as a measure of attainments and improvement. Rewards for good behavior are for the most part substituted for punishments. The prisoner is granted a parole in case he has made proper advancement along all lines of discipline and training. The plan tends to systematize the handling of men according to their individual attainments and fosters a spirit of justice and co-operation. The reformatory idea for first offenders has proved so successful and has met with such popular acclaim, that it has blazed the way for a much more comprehensive knowledge of the nature of criminality, the disease we are trying to cure.

The Elmira Reformatory maintains a thoroughgoing research bureau manned by a psychiatrist and a psychologist

who go deeply into the past history of each prisoner and write out a complete character study which is available in the every day management of each department as it is needed in the treatment of the man. Cumulative information is gathered by the heads of the respective departments as they come in contact with the prisoner, especially while he is in the second or intermediate grade, upon the following points:

1. Family history as it affects the inmate.
2. Personal and environmental history; crime for which committed and number and character of previous delinquencies.
3. History of school work; result of instruction here; record of examinations, apparent ability to receive formal school instruction.
4. Industrial efficiency; ability to earn his own living, unaided or with assistance; ability to learn a skilled trade or to work at manual labor; progress in trades school work.
5. Social history and moral reactions; religious training; ethical reactions; attitude toward society, parents and dependents.
6. Physical examination; correction of defects and curing of disease, if affected.
7. Psychological and psychiatric examinations.[1]

After six months of good conduct in the probational grade the case of each man is carefully considered in a council composed of the superintendent, assistant superintendent and the heads of the various departments, as to his eligibility for promotion. The same kind of searching study maintains throughout the entire course of treatment. By the time a man is ready for parole his personality is as well understood as is possible to present day diagnosis.

F. *The Reformatory Idea Growing.*—A total of 27 state reformatories have been established to date, 17 of which are for men, 8 for women and 2 for men and women, but the public mercenary demands for self-support of most of these institutions has barred the wardens from enforcing the same high degree of training that is offered by the

[1] Report of Elmira Reformatory, 1925.

Elmira institution. In this respect the state use system of prison labor of New York has prevented Elmira from being completely submerged in industrial enterprises, so that most of the time her inmates can be engaged in self-improvement. The Michigan Reformatory at Ionia has become largely a manufacturing plant, with the result that its school regime has been greatly neglected. This is true also of some other reformatories. The public usually holds certain mercenary requirements over the warden which are foreign to his real job, making it difficult for him to conduct a real reformatory. Reformatory methods have been adopted in many state, municipal and county institutions; and a large number of institutions have introduced schools of an academic and industrial character with varying degrees of success. It is safe, however, to say, that few of them have entered the educational field in earnest. Many criminologists apparently have not yet grasped the significance of education and training as a reformative measure for every type of criminal as it will be accepted, it is hoped, in the near future.

G. *Criticisms Urged against Reformatories.*—There have been some criticisms against reformatories as they have functioned in the past, because so many of their graduates have found their way into other penal institutions, which fact is urged to prove that they are not as effective as they should be. It must be remembered, however, that the reformatory does not have an opportunity to reform a man until many other social agencies have failed with him. The reformatory is supposed to take the siftings of these agencies and to save them to good citizenship. It cannot be expected, therefore, that the reformatory will succeed in every case. The greatest demand upon it is to discover its own mistakes and if it cannot effect a cure, to make sure that the failure is not sent back into society to continue in lawlessness.

A very common criticism is that the reformatory régime still holds to the en-masse method of treatment; that is, that it does not employ sufficient individualization. We have shown that from early morning until late in the evening, every duty is strictly prescribed, which tends to render the inmate a machine, rather than an autonomous individual. It destroys opportunity for self-expression. This objection is less true of Elmira than it was a few years ago. Under the intelligent direction of Dr. F. L. Christian a careful individualization of diagnosis and therapeutics is being applied, and men are given increased opportunity for autonomy of action. It will be worth while to observe the improvements.

Due allowance must also be made for failures due to certain handicaps presented by the vindictive foibles in our criminal law, such as limitations imposed by the minimum and maximum of the indeterminate sentence; the inadequacies of parole supervision, largely due to insufficient funds; the lack of trained workers, and the lackadaisacal co-operation of the public. The juvenile institutions all over the country are perfecting an educational system for young offenders which it would be well for institutions for adults to pattern to some extent. The same general principles prevail and the possibilities for training of adults are greater than is generally supposed.

6. *Vocational Analysis Essential.*—The desirability of employing psychological tests for the classification of inmates is briefly explained in another chapter. It is in methods of re-education that such classification finds a major part of its applicability. Industrial organizations have for many years found it necessary to analyze physical materials to be used in manufacture of their products. Many of them are just now, for the first time, giving attention to vocational analyses for their working forces. There is little use of mental analysis unless something is to be made

of the diagnosis after it is determined. Vocational guidance is demanded to determine the aptitudes of prisoners for their economic adjustment in free life. Recent developments in group tests and individual tests are very helpful in obtaining an intelligence rating which is the first important step in determining vocational aptitudes.

7. *Vocational Tests Not Perfect.*—Vocational tests have not yet reached their full fruition; but the modern educational director will find sufficient guidance in them to aid him in the formation of his classes, and aid him in analyzing individual aptitudes. He should be open-minded enough to adopt new discoveries as fast as they are made available by research psychologists. These tests are inclining more and more toward the determination of personality and are becoming more useful in deciding the kind of instruction needed by the individual pupil. It is also possible to predict with comparative accuracy the value of certain kinds of instruction and the profit likely to be received from it. Some of the pupils will be able to learn abstract ideas presented in verbal lessons, while some can pursue real apprenticeships; and others can grasp only concrete manual training. The daily tasks in the prison industries should contain abundant opportunity for training to prepare a man for his future vocation. Vocational instruction tends to develop the individual in finding his proper sphere in society, as well as to develop mind and body, and to furnish, at least, an elementary knowledge of the occupation to which his life energies will be devoted.

8. *Hit or Miss Assignments.*—The average mentality and ability of inmates in different prisons vary greatly. In some institutions the average intelligence quotient level of the prisoners is much higher than in others, depending upon the locality and the type of prison. The city or county prison for misdemeanants will have a different type of

prisoner from a Federal penitentiary. Prisoners from an agricultural community differ from those taken from an industrial center. The choice of industries and the training provided by the schools must be gauged accordingly. The assignment to various tasks in the average institution today is based entirely upon the "snap" judgment of some subordinate officer and as a result there are many "square pegs in round holes." How much more efficient the industries could be conducted if every man were fitted to his job and every man were doing the task he loved best! Prison wardens lament the fact that so few paroled men follow the line of their prison training after their release. They despise their prison assignment because they do not have a special aptitude for it, and take little pains to prepare themselves for it. The prison task is irksome and distasteful. To follow it for life would daily remind them of their prison experience. When the prisons partake more of the nature of a vocational training school, or a college, the training and experience the pupils receive will be a more pleasant memory and they will make better use of it in after-life.

9. *Piece Work vs. Apprenticeship.*—The popular demand is that prisons employ specialization of mechanical operations for efficiency. Piece work operation in outside factories has demoralized many specific trades and has caused industrial mal-adjustment. The day of the apprentice is waning. More apprenticeship is needed in the neglected trades. We can supply this training in our manual training high schools and in our prison schools. High schools now recognize this fact. Why not in reformatories and prisons? Because the primary object has been to make money, not men.

10. *Opinion of Criminological Psychologist.*—Dr. Edgar A. Doll, Psychologist of the New Jersey Department of Institutions and Agencies, a few years ago summed up a

splendid paper in which he presented many of the above educational requirements as follows:[1]

"1st. It is now possible to apply psychological tests to institutional populations with a minimum expense and time and with a high degree of accuracy and practical profit.

"2nd. The results of such tests are absolutely fundamental to the intelligent management of an institution, since otherwise one must rely upon trial and error methods, rather than upon scientific prediction and classification.

"3rd. The results of such tests lead to the formulation of institutional policies regarding the disciplinary disposition or educational development of institutional inmates and indicate the most profitable lines of education and training which can be followed.

"4th. It is possible to analyze school courses of study, educational methods and occupational shops with a view to improving the efficiency of the means and methods provided for the welfare and development of institutional inmates.

"5th. It is possible, as the result of detailed industrial analysis, to extend and improve the industrial and vocational training now afforded by institutional shops.

"6th. It is possible to distinguish between verbal and manual types of children and adults and on this basis to discriminate between the kinds and degrees of educational or industrial development that are possible in each case."

11. *Education in All Kinds of Prisons.*—A number of scattered institutions have adopted plans for schools of letters for beginners, academic studies and technical instruction. The chief defect is that these schools are subsidiary and unstable, with little organized effort. In many prisons there are no class rooms, and often there is scant equipment. On account of inadequate appropriations they must depend upon voluntary teachers or inmate teachers who

[1] "Intelligence and Industrial Tests in Institutional Administration."

have little or no knowledge of teaching. Every modern prison should maintain an educational director who has at least as much skill as a high school principal. There should not be a limit in funds to procure adequate equipment and the architectural arrangement of the institution should provide a sufficient number of spacious, light and well equipped school rooms. Teachers of considerable ability should spend their entire time in the educational activities, and the school should be among the most wholesome and enjoyable parts of institutional life. Close affiliation with the psychological department, and co-ordination with every other activity of the institution is essential. With such facilities for constructive educational effort, the institution will send out a much larger proportion of graduates to be self-supporting and self-controlling.

12. *Model Educational Plan for a Prison.*—The following schedule is a composite picture of the educational departments of a number of institutions with which the author is, more or less, acquainted. None of these institutions conducts all of the activities herein enumerated, but all would increase their efficiency if they would adopt some such program:

A. Literary and scholastic studies should be adopted according to the individual needs of the population, as follows:

(1) Reading, writing, spelling, grammar, rhetoric, English composition, English literature, debating, and language study.

(2) Arithmetic, algebra, geometry, trigonometry, surveying and astronomy.

(3) Physics, chemistry, physiology, geography, natural history.

(4) Geography, history, civics, etc.

(5) Other studies as demanded.

B. Trade apprenticeship in:

Blacksmithing, carpentry, bricklaying, plastering, stone masonry, cement finishing, painting, decorating, structural iron work, automobile repairing, mechanics, etc.

C. Agricultural training using the various farm departments as a laboratory. These studies would embrace:

Stock raising, judging stock, dairying, poultry raising, agronomy, horticulture, floriculture, entomology, etc., etc.

D. Engineering and kindred courses in:

Mechanical engineering, electrical engineering, civil engineering, mechanical drafting, architecture, drafting, efficiency engineering, accounting, etc.

E. Cultural training in music, music-appreciation, art, drama, etc., using the recreational activities for exhibition purposes.

F. Ethical and religious instruction. The regular religious services under the direction of the chaplain should be augmented by ethical instruction for the entire population. An evening each week at which educational moving pictures are shown, and followed by ethical talks on character, habits, honesty, truthfulness, our relation to society, etc., presented by various successful business men, teachers and professional men, in an interesting manner.

G. Exhibitions, such as debates, dramatic presentations, musicals, etc. A prison paper to which all may contribute under the censorship of the educational director.

13. *The Commencement Exercises.*—An annual commencement should be held for the encouragement of the pupils and the recruiting of new pupils for the next school year. Those who have taken the courses of study will thus be stimulated to continue in their school work, if they are called upon to review their accomplishments in the school. It is refreshing to hear a man tell from the platform that he has learned to read and write; or a member of the class in public speaking to engage in debate on a popular topic.

In the Pittsburg *Post* of recent date appeared the follow-

ing editorial in appreciation of an exhibition of this character at the Rockview Penitentiary:—

COMMENCEMENT AT ROCKVIEW

"In pleasing contrast with most of the news that has issued from Pennsylvania's penitentiaries lately is the account of the commencement exercises held at the Rockview prison. Sixty convicts who had completed courses in which instruction was furnished by the extension department of the Pennsylvania State College were given certificates with appropriate ceremonies. All of the 500 inmates of the institution were present at the exercises and they applauded heartily as Professor C. G. Gaum handed each of the graduates his diploma and congratulated him. There were some speeches and a radio concert received on a set made by one of the convict students in the radio class. In this incident there is just a suggestion of what prisons might be under ideal conditions—places where criminals would be reformed, educated and transformed into useful citizens amid kindly influences. . . . Among those who have taken State College extension courses at Rockview in former years are some who have been enabled thereby to obtain good positions on their release and have been living decent lives since.

"The point is never to be overlooked that criminals are not all alike. Some are hopeless cases and others have been led into crime not so much by an innately evil nature as by force of circumstances. It is well worth while to try to redeem the latter, and educational activities to keep their minds occupied in wholesome employment are a means to that end."

14. *The Instructors.*—There should be an educational director and as many well trained instructors as are necessary. It is especially advisable to have on the educational staff an efficient musical director. Some institutions are so fortunately located as to have the assistance of teachers

from night schools, high schools, academies and colleges. Rockview, located only seven miles from Pennsylvania State College, is fortunate to have the assistance of the University Extension Department. The Detroit House of Correction school is a part of the night school system maintained by the Department of Education of that city.

In the above scheme the prisoners work eight hours in the regular industries and devote their evenings to school work. Examinations are held regularly and papers are carefully graded.

The personal influence of the teacher is likely to be as helpful to the prisoners as the instruction he imparts. It is highly desirable that this important leader should impress upon his pupils, by his clean, manly force of personality, that it pays to keep the law and live a good life. Dr. Bernard Glueck recently delivered an address before the National Association of Visiting Teachers, which shows the value of this personal touch better than we can express it. He said: "Man has managed pretty well the problems which have confronted him from the side of his physical environment. It is only when these problems become complicated by factors of human nature and human personality that the obstacles to a solution begin to loom large. In the teacher we are confronted first and foremost with a living, pulsating human being with needs and desires and aspirations as intense as our own may be; a human being, subject to frustrations and denials, loves and hates, and a zest for making his or her personality count in this business of living, quite as keen as that of the rest of us. It is this human being and not some impersonal educational process to which the child has to adjust primarily, and his joys and sorrows as a human being as well as his successes or failures as a pupil are largely determined by the nature of this contact."

CHAPTER X

THE VALUE OF RECREATION FOR PRISONERS

1. *The Old Style of Exercise for Prisoners.*—I was once conducted through the yard of a prominent institution in which the men were receiving their daily "recreation." This consisted of marching in single formation around a large circle, past a formidable array of officers. Each officer carried a hickory club in his hand and wore a stern look on his countenance. The men ambled slowly around the circle, despondent and dejected, stoically filling the time allotted to exercise, but realizing very little benefit from it, other than a change from the monotony of close confinement in depressing cells. This, of course, was about all that was expected by their unimaginative keepers. There was a very noticeable prison pallor on the face of every man, through which darkly glowered the lineaments of sullenness, mingled with disgust and a "whipped dog" expression. During the entire exercise period not a word was spoken, nor was a single countenance lighted by a smile; rather the pseudo recreation hour seemed to be regarded by them as a solemn and onerous part of their daily duty, carried out with no more enjoyment than any other requirement of the machine-like regimen under which they labored. At the end of the period the solemn deputy officiously pointed toward the cell block, into which they silently filed. There was an ominous clanking of steel upon steel as the long rows of pretentious doors closed and locks securely snapped. Then all was still.

2. *Introduction of New Methods.*—Something more

than a year after this depressing visit I was again the guest of the same institution and was enthusiastically conducted to the same yard, where I beheld a transformed scene. The men were at their recreation, but, oh, what a change! As I stepped into the arena my ears were greeted by happy shouts and peals of laughter. The boys were playing a game of baseball: a hot contest, in which all were intensely interested. The spirit of the men was contagious; even the officers had caught it, and I speedily found myself enjoying the sport with them and rejoicing in the skill of the players. There was an entirely different expression on the faces; now they were smiling, laughing and shouting; now thoughtful and glowing with enjoyment; red-faced athletes, becoming more manly every moment of their play. The teamwork was producing a spirit of co-operation and self-confidence; while the opportunity for self-expression developed their power for actual usefulness; creating a better morale by driving out the depressing sadness of their prison predicament. Some one in authority had caught the vision. The humdrum existence in that institution had departed. Work was more efficiently performed. Every man had acquired a better appetite, greater strength of mind and body, and a determination to make amends for past failures. Today it would be impossible to persuade the management of that prison to return to the old-time, negative system of recreation.

3. *Recreation and Coddling.*—It is encouraging to know that there are few, if any, prisons to-day where the value of organized play is not appreciated to some extent, at least, and this is one of the most hopeful signs that we are, at last, beginning to understand that criminals are just folks. Once in a while some thoughtless critic will declare that the warden who recognizes the educational value and health-building qualities of recreation is "coddling" his protégés. It is hard for anyone who really understands the true

objectives of cultural recreation to read these shallow accusations without experiencing a considerable rise in temperature. He knows that the accuser is still harboring the delusion, born thousands of years ago, that a prisoner should have his life ground out of him if we would make him a better citizen. In order to make him better one would have to make him worse. In order to make him respect his teachers one would have to make him despise them. In order to send him out into the world to respect the law one should kindle a hatred in his heart against society which makes the law. In order to make him healthy enough to go out and make an honest living one should keep him in a gloomy, depressing, poorly ventilated cell, half feed him, and make him work laboriously, with no surcease of pain and sorrow, until he returns again to the world, worse than when he was arrested. Fine logic, but anything to these critics is better than "coddling," which should be discontinued. These people would probably be first to complain if a prisoner, treated after the order of their prescription, should revert to crime at the conclusion of their grinding-out process.

Just what do they mean by "coddling"? Webster defines the word as "softening by treatment," "treating one with over indulgence." Is the warden guilty of this heinous offence when he recognizes the natural demands of the prisoner's physical, mental and moral nature and takes him into his confidence, secures his co-operation to supply his needs, and to correct his frailties? Is the warden in danger of submerging the criminal in the milk of human kindness if he attempts to bring the highest qualities of manhood to the surface? If a humane interest, based upon psychological methods of education and health improvement, is what is meant by coddling, every good warden will be obliged to plead guilty to the charge.

Who more than the self-centered criminal needs to know

the social advantages of fair play? Who more than the drifter needs to stimulate ambition by striving competitively for a fixed goal? Who more than he needs to learn the value of team work, co-operation, the sublimation of unworthy complexes into service for the entertainment of his fellows—all of which qualities are imparted by competitive games?

4. *The Proper Use of Leisure Time.* — The cultural necessity of recreation in a penal institution is hard to understand by the person who has never studied at close range the psychological effect of music and play upon the character of the patients. The day of twenty-four hours is logically divided into three periods of eight hours each. It is generally decreed by statute that the prisoner should "work hard" for a period of eight hours each day; and it is assured that in the average prison that work is not easy. The prisoner is not permitted to sleep more than eight hours in the stern, military regime of a penal institution. Now, what shall he do with the other eight hours? Spend his time in telling tales of criminal adventure? Reading trashy literature? Gambling? Moping in a depressing cell? Those were the kinds of occupation during leisure hours under our traditional system of retaliation. Modern methods have discovered a better use for this time in educational and cultural activities. The leisure time is so fully consumed by supervised recreational activities, including school, drama, competitive games and other helpful exercises, that there is little time left for those things which degrade and destroy. In another place we have said: It is now generally recognized that the social instincts of men must be taken into account. The deportment of the average man is gauged largely by his desire to stand high in the opinion of his fellows. That social approvals have much to do with the acts of the individual is a fact that should be of the greatest utilitarian interest to the man responsible for the deportment

of men who have made a false step and who are in his custody for improvement.

5. *Popular Demand for Recreation.*—Play, at one time, was thought to be a fitting occupation for children only, and it was regarded as childish for an older person to indulge in sports. In recent times, however, efforts are put forth to enlist entire communities in wholesale recreation; because it is now generally recognized that organized play and proper relaxation create better citizenship. The National Playground Association and Community Service have sprung up from public acceptance of this fact. These and kindred organizations exist for the purpose of developing community life, better average health, and an important grasp of all of the higher virtues essential to a well-preserved national community and individual integrity. Cities and rural communities all over the land have caught the spirit, and many millions of dollars are expended annually to provide wholesome recreation to all the people. The Young Men's Christian Association, Knights of Columbus, Young Men's Hebrew Association, athletic clubs, public and private golf clubs, college and high school athletic departments and the many playgrounds and recreation centers which are conducted in all of our wide-awake cities testify to the public appreciation of the value of play. The enormous patronage of commercial recreation of all kinds shows how much recreation is appreciated by all classes. These recreational agencies are maintained at enormous expense because play is a necessity, not a luxury. The convicted man needs the same qualities of manhood as those who have never fallen.

6. *Social Resources Employed.*—At the Columbus Congress of the American Prison Association, Dr. Edith R. Spaulding, President of the American Association of Clinical Criminology, read a paper entitled "The Rôle of Personality," in which she stated the need for a complete physi-

cal, mental, and social diagnosis of the prisoner; after which she expressed the need of adequate treatment.

"When the level of development that a patient has reached has been ascertained he must be helped to advance to a higher level of grownupness, and to find the balance in his character that he has either lost or, more frequently, never attained. In such an effort at reconstruction in institutional life every social resource must be utilized that will stimulate his development. That will include any educational or industrial interests that strongly appeal to him."

7. *Effects of Recreation on the Character.*—Now, just what can competitive games, drama, music, and other forms of recreation do for him? They exert an influence to turn the vital energy and interests from the negative drift to the positive; from a tendency toward destruction to construction. Stockton Raymond, General Secretary of the Family Welfare Society of Boston, recently wrote to the Playground and Recreation Association of America as follows:

"The four biggest problems facing us to-day, it seems to me, are disrespect for law, race and religious prejudice, industrial conflicts, and war. The solution of these difficult problems lies in better understanding among men, which comes from the feeling of brotherhood. It may seem far fetched, but to my mind recreation, which means doing together the things we like to do, is one of the best ways of promoting mutual understanding and respect."

A. *Aids in the Morale of Prison Body.*—Every prison warden knows that recreation keeps down misunderstandings, secures co-operation of the entire prison population with the requirements in work and discipline, rendering punishment less necessary and eliminating distrust. In this way a natural and easy channel is provided in which constructive measures can be carried out. The natural bent of the criminal is toward selfishness and individualism. To

utilize his gregarious desires to bring about social adjustment is one of the natural results of team work.

B. *Self-Expression and Stability of Character.* — In another chapter we observed that a great many men of criminal impulses are emotionally unstable. In some cases this is responsible for criminal tendencies. There are various factors in competitive games which tend to develop self-expression and stability of character, bringing out qualities of sportsmanship which render the weak characters more nearly the masters of their own destiny. When the prisoner becomes thoroughly engrossed in some definite sportive feat, demanding all his power of mind and body, he receives an influence diametrically opposite to the debilitating depression of the old-time vindictive régime.

C. *Culture by Directing Instincts Into Good Channels.*— There are many natural urges in the mental makeup of the criminal, as in other men, which cannot be satisfied in his daily work. These urges are sometimes spoken of as instincts, but in reality are organized impulses with a cultural tone growing out of primary instincts. Perhaps we should call them cultural instincts. They seem to have been placed within our makeup for good and sufficient reasons, driving us to struggle for personal development and for favor in society.

(1) *Rousseau's Theory.*—Jean Jacques Rousseau, as far back as 1762, expressed the fundamental truth relative to the purpose and necessity of these instincts in training: "To strengthen the body and make it grow, Nature has her ways and means, which ought not to be opposed. You should not compel a child to abide in a place when he wants to be going, nor to be gone when he is desirous to stay. They ought to be suffered to leap, run and hollo when they have a mind. All their motions are so many wants in their constitution which are endeavoring to gain strength." [1]

D. *Removes Harmful Repressions.* — In applying this

[1] *The Theory of Organized Play*—Bowen and Mitchell.

thought to the prisoner we must, of course, remember that he is under restraint, and for his safe keeping we must place certain restrictions upon him; all of which make prison life, at its best, somewhat repressive. If he has any instincts which we can employ to furnish an impetus toward his development we should provide the means for such improvement.

8. *Instinctive Tendency to Activity.*—Bowen and Mitchell, in "The Theory of Organized Play," strengthens this thought by the following statement: "Every child breathes, winks, swallows, laughs, cries, etc., without trying to do so and at first without being aware of it; in a similar manner he later tries to stand, strike, run, throw, talk, etc. Such activities are said to be instinctive, each one being called an instinct. All living things have an instinctive tendency to be active—that is, to exercise all their powers and faculties. As the child's powers develop, one by one, there arises along with each budding ability an instinctive desire to use that ability and a satisfaction in exercising it. For example, to grasp with the hand develops very early in the child, and as soon as the ability appears he begins instinctively to practice opening and closing his fingers, over and over again, for hundreds of times. The same is true of walking, talking and scores of other abilities. The practice helps in developing the ability—in fact, is necessary to it. As soon as he has acquired certain simple abilities he begins to combine them into more complex performances, all the time being urged on by an instinctive desire to do things and a satisfaction in doing them. According to the instinct theory, this is the origin and beginning of play." [1]

9. *Building a Higher Type of Manhood.*—Now, as the cultural instincts are given full sway in well-directed lines they tend to strengthen the character and build up body and mind, but if neglected or misdirected they may assume de-

[1] From Bowen and Mitchell's *Theory of Organized Play,* page 185. Copyrighted, 1923, by A. S. Barnes and Company, Publishers, New York.

structive tendencies. Constructively developed, they become dynamic forces in the building of a higher type of manhood; neglected, they take courses which lower the standards of living and vitiate physical and mental power. The rhythmic and harmonic instincts may be cultivated to a refined musical appreciation and if the hands or vocal organs are trained to co-ordinate with them they may be employed to entertain others, and a useful end is conserved. The dramatic instinct may be drawn upon to develop the power of acting and entertaining to the pleasure and instruction of the crowds. The instinct of fair play which may be developed in all competitive games has a tendency to overcome in the former criminal a disregard for the rights of others. We have mentioned but a few of the innate impulses which can be brought to a fuller fruition of development along useful channels, for the elimination of criminal tendencies and the acquisition of powers necessary to succeed in the social and business world.

10. *Sublimation of Complexes.*—In another connection (Chapter XII) we will show the relation of mental conflicts to criminal conduct as the repression of the primary instincts and the possibility of sublimating them into social helpfulness. Play may become the channel through which this can be accomplished. There are many urges, indigenous to adolescence, which are sometimes carried over into manhood of the criminally inclined, such as the desire for change, loyalty to the gang, adventure, etc. The outgrowth of some of the really social instincts, misdirected, may react unfavorably upon behavior. These impulses can be trained and directed into useful channels by the skilled application of recreational activities. Teach the novitiate in character building that he can do some one thing well, and that he can bring joy to his fellows in so doing, and you have placed a tool for social service in his hands and a powerful incentive to use it constructively. While doing this you change the character of your patient from selfishness to service and secure the

hearty co-operation of your patient while the training is in process. It has been found that properly supervised play reacts upon the character by the cultivation of such personal qualities as perseverance, self-control, decision, initiative, courage, thoroughness, ambition, enthusiasm, reliability, self-restraint; and of such social qualities as loyalty, tolerance, optimism, unselfishness, justice, honesty, and many other rare virtues which we all recognize to be of priceless value.

11. *The Plastic Personality.* — Psychologists assure us that every experience, pleasurable or disagreeable, records an indelible impress upon our minds and we are disposed in the future to act along these trends; that our present thoughts and actions are largely the outcome of antecedent thoughts and actions; and we will be to-morrow the creatures of our thoughts to-day. How important, therefore, while we have the plastic mind of the delinquent in our care, to mold and fashion it after the pattern of the noblest thoughts he can be induced to entertain. If the above high qualities of character can, to any degree whatsoever, be implanted by play, we should not neglect this wholesome means of character building.

12. *Development of the Mind and Body.*—It has been pointed out by Bowen and Mitchell that play tends to develop the mind through motor activity, giving more perfect control over the body. It builds up mental endurance; offers an insight into human nature; develops the nervous system; gives a knowledge of environment; imparts a wide range of experience; affords mental relaxation; develops personal preparedness; such as strength, speed, skill, agility, and grace of movement. It is healthful, having a stimulative effect upon the nerves, muscles, and digestive glands, so desirable and necessary to the best physical and mental growth. These authors make the following statement: "From the educational standpoint play has, as its essential

characteristic for the player, an absorbing interest in the occupation in which he is engaged. The spirit of play is the joyous and self-forgetting enthusiasm in the pursuit of an occupation, in the accomplishment of a purpose, or in the attainment of an ideal. It is this spirit that gives play an unequaled driving power and its superior value in education. Play is not contrasted with work, but with drudgery. Play and drudgery are the two ways of getting work done; the former by inspiration, the latter by compulsion. The play spirit is creeping into our pursuit of health, and is being directed toward that end; it is finding place in our educational systems; it has always been a religious function; and it is ever the impulse of the highest type of art."[1]

13. *Games Best Adapted to Prisoners.*—The following games of physical contests have been found to be popular with prisoners for regular play periods: Shot-putting, quoits, basket-ball, volley-ball, baseball, throwing and catching, wrestling, boxing, bowling on the green, croquet, pole-vault, and kindred games. The following sports are more often employed on special occasions, such as holidays, athletic meets, etc., but not so popular for every-day use: Potato race, relay race, fly race, hurdle race, shuttle race, sprints, tug-of-war, Indian club race, discus throw, hop, skip and jump, running and standing broad jump, baseball throwing for accuracy, volley-ball serving, etc.

14. *Cultural Value of Music and Drama.*—To cultivate the dramatic, musical, and rhythmic interests of prisoners is an important and a helpful morale interest which should not be neglected. A musical director can be kept profitably on the force, and his entire time can be employed working out the latent talent discovered along these lines. His work logically fits into the educational department. Constant training should be maintained and frequent entertainments

[1] From Bowen and Mitchell's *Theory of Organized Play*, pages 203-4. Copyrighted, 1923, by A. S. Barnes and Company, Publishers, New York.

presented before the entire population. There is a surprising amount of dramatic and musical talent in almost every penal institution, which should be developed to its fullest fruition. Without proper supervision, however, it is liable to degenerate into uncouth and foolish freaks of entertainment, conducive to evil rather than good. Some pretentious plays have been exhibited for the education and pleasure of various reformatories. The musical groups can be used regularly in chapel, school, motion picture shows, theatricals and at other meetings of general nature. Some institutions have added much to the contentment and co-operation of the prisoners by permitting the orchestra to render selections during the serving of occasional meals.

A. *Various Musical Groups Possible.* — The musical groups that it is possible to develop are: Glee clubs, choirs, quartettes, sextettes, brass bands, orchestras, mandolin clubs, drum corps, etc., and the entire population can be profitably enlisted in periodical community singing. We have not made as general use of music in penal institutions as will be made in the future, because efforts in this direction have been sporadic, and because dependent, to a large extent, upon the ability and initiative of individual prisoners. No general effort has been put forth to direct and train the musical talent, because such training has been regarded as an innovation rather than as an educational necessity. We are destined to recognize its therapeutic value more as we begin to understand the human mind better; particularly the pathological side of the criminal mind.

B. *The Experiment in Pennsylvania Institutions.* — An interesting experiment is in progress in the prisons and hospitals for the insane in the State of Pennsylvania, under the auspices of the Bureau of Mental Health of the Department of Public Welfare. The psychological influence of music and drama is studied as to its therapeutic value. It will, of course, be difficult to tabulate the scientific value of

such influence, and deductions will be of a general character as measured by the morale of the institutions and the mental improvement of individuals participating in the therapeutic activities. Observation of a pathological group before and after their enlistment in musical and dramatic activities is, at present, the only test of the utility of the experiment.

C. *Psychological Influence of Music.* — The following graphic description of an evening of music at the Rockview Penitentiary has been given by Willem Van DeWall, Field Representative for Institutional Music: "The following account is taken from an official report, made by the writer, on the initial organization of musical activities in one of our big correctional institutions for male convicts. In this prison now is functioning a full-fledged musical department, which has as its sub-division a band, an orchestra, mandolin, guitar and banjo clubs, a Protestant and a Catholic choir, a glee club, and a community chorus. The extract refers to the first experimental combination orchestral and vocal free-for-all concert:

"After some talking and persuasive recruiting the nucleus of an embryonic orchestra gathers, composed of one violin, two cornets, two banjos, one saxophone, one baritone and one drum. The remains of what had long since died and decayed as a square piano were disinterred and placed between the rows of cots of the hundreds of men. Before this I took my place, but could produce only some very plaintive, thin, wailing and nerve-racking sounds.

"This was enough to make scores of men, lying idly and dreamily on their cots, jump up, some with mounting color and sparkling eyes, looking around gloriously surprised, as if heaven itself had opened. Eight men emerged from the crowd, more or less timidly, and reminding one of dirty, ugly slum urchins. Some of them were pushed forward, and out of odd bundles and from the very bosoms of their prison blouses emerged musical instruments and sheets of

music. An institutional drum made quite a royal appearance amid its shabby fellow-instruments. With this outfit and its enthusiastic players we started our first orchestral program, which opened and closed with a mighty *crash bang*. However, we had also slow waltzes, quite languishingly played, considering the circumstances; and there was even an operatic selection. Lack of duplicate copies of the music, music stands, and other supplies, as well as improperly functioning instrumental valves, etc., limited the expressional possibilities, but the will was there, and we pulled through.

"To spare the men I interjected vocal solos and community singing. One man tore from out his blouse a copy of 'The Holy City,' and from underneath pillows and wooden boxes more or less furtively were produced copies of various popular and sentimental numbers."

"It took about half an hour to draw out the full expressional power of these men, to convince them that they should play without mutes, and do away with the scars of prison repression, as manifested in their institutional soft-pedalled behavior. A wall of men surrounded our performing group, absolutely taken out of their sordid situation and lifted to a sphere of hitherto unknown free enjoyment and ravishing satisfaction. . . . The concert lasted for two hours, when it was interrupted and terminated by the howling prison siren, jerking the men up and away for the night count. One man, in passing by, said: 'Hey, mister, don't you think we are musical fellows? You know, we have just a few 'bad eggs' among us, but most of us are just darned fools, romantic chaps, who pay a heavy price for the nonsense stuff we pulled. But you know we have feelings, too. The people on the outside forget that, and we forget it, too. But this music brought it out and back—at least to me.' " [1]

C. *Psychological Influence of Music.*—Psychologists tell us that music is a sensory stimulant which arouses latent

[1] "The Utilization of Music in Prisons and Mental Hospitals," p. 25.

forces, increases muscular activity and strengthens the personality in many ways; or it calms and soothes the nerves, rests the body and inspires the mind with new hope and higher aspirations. As normal creatures, we are strongly moved by the influence cast upon us by the magic spell of music. Soldiers, marching stoically forward toward the enemy, are inspired and spirited to patriotism beyond measure by the stirring strains of a march or battle hymn. Men weak from bodily pain respond to its gentle appeals and forget their troubles. Those prone to violent deeds will hesitate and tend to substitute for their obsession gentler action when a plaintive melody falls upon their ears. "Music hath charms to soothe the savage breast." So does music ingratiate its beneficent power upon the men in prison, who, perhaps, need it more than any of the rest.

D. *Recognized in Higher Circles.*—In the higher circles of society, the opera, the symphony concert, community sings, religious worship and various other musical exhibitions, enthral and lift out of despondency those who are weary from long hours of commercial or industrial strain and produce a beneficial and cultural influence. Vast sums of money are expended by free citizens for the opera and symphony—the compositions of the old masters lifting the hearers out of themselves into aesthetic dreams. In the cottage of the humble workingman the victrola, player-piano, or radio concerts serve the same beatific end. Wherever music is heard it tends to pacify, soothe and awaken a love for higher things. Its subtle charms lift the greatest and humblest from the lowest depths of despondency to higher purposes and greater achievement. Who, then, would deny its many bounties to those whom society has branded as, perhaps, in the greatest need of some such power?

15. *Recreation Fits Into the Newer Type of Correction.*—The modern conception of penology means more than

punishment and safekeeping, more than hard work, more than good dietary and wholesome sanitation; it means, also, the recruiting of every educational and inspirational facility possible to the men undergoing treatment. What society will receive from the criminal is exactly what it is willing to put into him—nothing more. If we expect some kind of transformation to take place in his mind, every agency possible to human ingenuity should be directed upon him to accomplish it. How to change him from the nature of an outlaw to the status of a normal citizen is of paramount concern not only to the convict and his keepers but also to the outside world. Recreation is by no means the least of the many cultural processes which can be judiciously used to save him from recrudescence.

CHAPTER XI

SELF-GOVERNMENT OF PRISONERS

1. *Origin of the Self-Government Idea.*—It is difficult to say just where the idea of inmate self-government originated. In 1793 there was a simple form of self-government permitted to the inmates of the Walnut Street Jail in Philadelphia, which was not of long duration. Some of the first experiments of this character were in schools for delinquent boys, such as the New York Home of Refuge and the Boston House of Correction, soon after the origin of these schools. Zenos R. Brockway instituted a modified form of self-government at the Detroit House of Correction when that institution was primarily a reform school for first offenders between the ages of 16 and 20. When it became necessary to commit misdemeanants and older felons to the House of Correction, and subsequent to Mr. Brockway's incumbency, the self-government features were abandoned. A number of experiments of limited co-operative government have been tried in some institutions for adults, the Massachusetts State Prison being probably the first, in the year 1845. The system was not really self-government, because the warden was the president; the committeemen were largely appointed by him, and the function of the organization consisted chiefly in the discussion of measures for the welfare of the inmates rather than a real participation in directing their own affairs.

2. *The George Junior Republic.*—The self-government idea was doubtless inspired by the George Junior Republic, at Freeville, N. Y., of which Mr. Osborne was for fifteen

years member of the Board of Trustees. That institution had its origin in 1895, was founded by William George, and has been copied by various juvenile institutions in all parts of the land. It has been so successful throughout its history that there is no doubt of its educational value in the training of juvenile offenders.

3. *The Mutual Welfare League.*—The outstanding example of self-government for adults is the Mutual Welfare League, introduced by Thomas Mott Osborne at Auburn and Sing Sing in 1914 and at the Naval Prison at Portsmouth in 1917. Mr. Osborne lucidly describes the origin, principles, and operation of these experiments in his three books, "Within Prison Walls," "Society and Prisons," and "Prisons and Common Sense." The Welfare League demonstrated that many powers of governmental authority may, with a greater or less degree of safety and utility, be delegated to prisoners. In that system there were several functional groups chosen by the prisoners for their own welfare and the welfare of the institution, such as committees on organization, athletics, entertainment, education, grounds, employment, sanitation and judiciary; all of which furnished a splendid opportunity for the prisoners to engage in constructive efforts for their own welfare. These and other committees were elected by all the members of the league as they were needed.

Mr. Osborne says the following about this movement: "The League is a prison system not imposed arbitrarily by the prison authorities, but one which is desired and requested by the prisoners themselves. There must be no attempt on the part of a prison administration to control the result of the League elections. Membership must be common to all prisoners; any other basis is false and will not obtain the desired objective—universal responsibility. Under the League all privileges are utilized as a means of obtaining responsibility for the good conduct of the prison community.

The open courts of the League mean better conduct and fewer punishments. The League has proved to be the most effective agent for stopping the drug traffic and combatting unnatural vice — when properly handled by the prison authorities, can largely increase the output of work and improve its quality." [1]

4. *Theory of Inmate Self-Government.*—The theory of inmate self-government is obvious. Prison life, at its very best, is likely to be artificial and below the normal in opportunities for self-expression. We have shown that high walls, mocking bars, monotonous régime, and depressing rules tend to stultify the higher qualities of a prisoner and to train him away from autonomous citizenship. Segregation of the criminal from society is practised for the purpose of making him better, not worse. When the great iron doors finally swing open to give him entrée into free life he should be in harmony with that life and should understand its demands. The harsh régime of silence, gongs, shaven heads, lock-step, stripes, and senseless rules is now *passé* because their rigorous exactions rendered the prisoner an automaton, incapable of independent action and self-control. His time of rising, retiring, eating, bathing, working and, in fact, every act of his prison life was strictly prescribed in conformity with a mechanical schedule; his keepers made it their business to know his whereabouts, his diligence, and deportment every moment of his irksome existence. The architectural arrangement of some prisons provides that every act of the men be under the closest scrutiny of vigilant officers every moment, day and night. Such watchfulness might be more sensible if one hundred per cent of the inmates were disposed to escape, disobey the rules and be indolent, but such is not the case. To maintain such a régime for the mass when only a small per cent need it is another instance of "the tail wagging the dog." Is there not some

[1] *Prisons and Common Sense.*

method by which the larger group, by their overwhelming influence, can govern the deportment of the recalcitrant minority? The answer has been sought in some form of inmate self-government.

The basic idea is for the population to organize and conduct a miniature community and to assume the responsibilities of that organization; to learn to do something by doing; and by shouldering those responsibilities to acquire the proper mental attitude toward good government. "Honor among thieves" is an expression of a very common fealty of a convict for his "pal." If this fealty can be transformed into real service for the welfare of all the "pals" in the institution and they can thus learn to live in concert they may absorb the principles of organized society and learn to respect its laws the rest of their days. Dr. George W. Kirchwey once said that his chief effort when he was conducting the activities at Sing Sing was to encourage the inmates to have confidence in one another. The employment of "rats" and informants by some wardens tends to arouse the suspicion of every prisoner against his fellows, which cannot but result in fights, riots and jealousies. The only way to handle a heterogeneous mass of prisoners in which every man is suspicious of the others is through force. The warden who can bind his inmates together into a harmonious group of co-workers for the good of everybody, simplifies his own job and introduces an element of culture which cannot be easily counteracted.

5. *Impediments to Self-Government.*—The theories appear to be sound, but how do they work in practice? The most grievous difficulties encountered in Mr. Osborne's experiment were that certain overzealous, arrogant characters usurped unwarranted powers and had to be curbed, at great embarrassment to the management and to the detriment of the system; some elections were unwise in the personnel selected; and there were times when the prisoners were

prone to forget the hardships of the former autocratic tyranny from which the self-government plan had freed them. Twice it was necessary for the warden to declare all offices vacant and start over again by holding new elections.

A. *Character of Men Necessary to Administer It.*—The objection has been urged by many successful wardens that men who are not capable of controlling themselves in free society are not capable of governing themselves after they are sent to prison. It must be admitted that the objection has some very salient points. Crime in its very essence is a warfare against good government. Unprincipled men who defy the laws enacted for the protection of society are not likely to be competent to make or interpret laws for their fellows. Their administration of government is likely to be biased by self-interest, jealousy and chicanery. There is danger that privileges may be contorted into license. There are many feeble-minded individuals who are incapable of successfully filling positions of responsibility or voting intelligently for inmate officers who are to direct them.

In an institution accommodating many low-grade foreigners and border-line cases the transfer of authority to men of their selection would result in factions, jealousy and pettifoggery. Many of these fellows are never willing to be dictated to by a fellow-prisoner; if they cannot influence him to join their trickery they repudiate him. It is reported that Sing Sing was finally compelled to reinstate paid foremen in the shops because the prisoners refused to work under the inmate foremen representing the Welfare League. This very common prejudice among prisoners often causes one of the greatest barriers to self-government; and the warden is called upon to decide whether he can overcome it before he launches into this kind of management.

The method provides an opportunity for the shrewd prisoners to exploit the defective and unwary men to the detriment of good management.

Mr. Osborne acknowledges that the "politics of the League have not always been of the highest quality," but he avers that the politics in society outside the walls are not without faults. The prisoners are just people and are likely to act naturally. The question left in our mind is whether there is a sufficient number of unselfish, public-spirited characters in the average prison to sway the elections and public measures to the advantage of universal good order, where it is of such vital importance.

B. *Prisoners Are Not Trained in Technique of Government.*—It is true that the average law-breaker has not studied deeply the fundamentals of good government and that his attitude toward government has been destructive rather than constructive. If he is not positively anti-social he is often asocial. Is he capable of suddenly adopting a scientific attitude toward organized society without carrying into it many of his unethical and anarchistic urges to the detriment of the welfare of his fellows? Wines and Lane, in "Punishment and Reformation," answer this objection as follows: "Which system of government is more likely to remedy this deficiency, the autocratic or the self-government one? Certainly the autocratic system has failed so far—failed lamentably and glaringly. It, at any rate, must be abandoned. If, then, the self-government system holds out better hope of success, why not give it a reasonable trial?"[1] If the prisoner is not able to govern himself, as pointed out by the objection, it is true that he should be taught how to do it. Is this not one of the chief lessons the prison must teach him, and how can this be done more effectively than by actual experience? It is certain it cannot be accomplished by autocratic authority, threateningly held over his head, as a club, to compel obedience at every turn. Why doom him to a life of ignorance in governmental affairs? His interest in a movement of this kind may occupy his mind in whole-

[1] *Punishment and Reformation*, p. 373.

some thought and teach him the purpose of the laws which exist for the protection of the entire community.

It must be admitted that Mr. Osborne's connection with the institutions about which he writes was short, and he did not have the opportunity to prove the durability of this kind of régime under his own management throughout a long period of actual experience; which would, after all, be the ultimate test of its utility, but his methods have been widely discussed and temporarily adopted in various forms in scattered localities.

6. *Examples of Failure.*—One institution which had a comparative amount of loose discipline throughout its organization undertook self-government, which seemed to be very successful for a few months. After a time the population made numerous demands, which could not be complied with because of the expense entailed not being provided for in the budget. The men became exceedingly disgruntled. When the warden undertook to pacify them they became more and more unreasonable, until a hundred or more of them broke into a riot, causing a great deal of trouble and making necessary the calling of a discreet prison manager from another state to the rescue. It was necessary for this new man to institute some rigid measures for the whole population before he could subdue the rioters. It is needless to say that the self-government system in the institution was abolished. In the New Jersey Reformatory, after a trial of the system for about a year, the spirit of arrogance became so great, because of the formation of cliques, the development of ward politics, the punishment of prisoners for personal dislike, and other disagreeable features, causing so much embarrassment to officers and prisoners that the general body of prisoners became disgusted with the whole system and voted almost unanimously to abolish it. They all agreed to go back to the former system of government under the warden and his staff.

The Connecticut School for Boys, the New York State Prison for Women, the Preston Reform School and a number of other institutions abandoned it after a brief trial. Outside of the junior republics and some juvenile institutions scattered throughout the United States the system has been abandoned in nearly all the prisons, which fact seems to demonstrate that there is either something wrong with the basic idea or that there is a shortage of leaders of Mr. Osborne's type.

7. *Wisdom of Prison Manager Essential.* — It is extremely hazardous to undertake self-government unless the warden is a past master in the knowledge of group psychology; and unless he has physical facilities of barring from membership in the organization, by segregation, any uncoöperative individuals who do not grasp the importance of a good *esprit de corps.* Under any circumstances the warden should be at the throttle. He should have his hand on every situation; be the last court of appeal, and have the confidence of his men so completely that they are willing in all matters gracefully and uncomplainingly to accept his decisions as final.

8. *Enthusiasm Based on Memories of Past Repressions.* —It seems to be the universal observation, wherever self-government has been tried, that there is, at first, great enthusiasm displayed by the prisoners, which is usually due to the great relief thus provided from a former repressive autocracy. This is especially true where the former mechanical régime was hard and unjust. The prisoners welcome the change and throw themselves into the drift of affairs with great earnestness. However, as new men come in and old men go out this contrast tends to wane. The new arrivals do not visualize the transformation that has been wrought. Finally, there is a minority of the men remaining who have witnessed the changes, and even some of the older prisoners are prone to forget. It then becomes necessary to remind

them of their former hardships to restir their enthusiasm. It becomes a question, therefore, as to how long it will take to obliterate completely this memory and stimulus; to keep in the foreground their sense of responsibility to the newer system, which is now becoming more or less perfunctory with them.

Any kind of humane system following a harsh system will be entered into enthusiastically by prisoners if they are assured that their warden is distinctly trying to do everything in his power for their welfare. They will study him minutely to learn his methods and special objectives, and they will became enthusiastic in trying to help him. If this hobby is self-government they will do their best to organize the men into co-operation. If it is a merit system they will be just as jealous to make that succeed. If it is the honor system they will encourage trustworthiness. They must first be convinced that their warden is interested in them and is trying to do everything in his power to eliminate injustice under which they have suffered.

9. *The Warden at the Throttle.*—If the warden decides to organize the population into any form of autonomous government he should first be certain that his population is qualified to assume the rôle, and that they really desire it so that they will not enter into it half-heartedly. Mr. Osborne makes the strong point that it should originate with them and be their organization. He should always stand ready to direct them along safe channels and suggest for them the best principles to be adopted. All of which service they will gladly accept if it is suggested in the right spirit. The official should review the deliberation of the representative prisoners and act as judge of their supreme court to decide all matters in dispute which may be inimical to good government. Humane consideration for the ultimate welfare of all prisoners, with partiality to none, should temper all of his decisions. Frequent conferences should be

held to harmonize the activities of the prison body with the ideals held by the administration. The wise warden will have his hands upon the reins of the government of the prison at all times. No groups of prisoners should be permitted to rule or sway the rest of the population in such a manner as to threaten the efficiency of the institution nor the welfare of any class. The prisoners should understand at all times that the purpose of any authority vested in them is a tacit agreement on the part of every member of the organization to co-operate for the welfare of everybody concerned. It is necessary to explain to the population that the privilege of self-government is granted that all inmates may thus have an opportunity to labor for the benefit of the entire population. Prisoners are thus given an advisory function which will give opportunity for considerable self-expression which will develop their initiative. This will make their stay in prison as tolerable and helpful as possible.

10. *Character of Prisoners to Be Considered.* — The populations of different institutions vary greatly in character. A system which is successful in one place might prove disastrous in another. It is assured that inmate self-government would be more difficult in a population composed entirely of misdemeanants with short sentences than in a state prison caring for felons. There are fewer men of high-grade intelligence among misdemeanants, who are usually sentenced for vagrancy, drunkenness, drug addiction, non-support, and other petty offences. The sentences are so short and the population changes so rapidly that few are there long enough to assume the responsibility of office. An attempt at self-government should be made only after it is assured that the proportion of mentally normal inmates is sufficiently large to assume the obligations thus created. For instance, at the time of Mr. Osborne's successful experiment at Sing Sing, and, in fact, always at that institution there is a large proportion of intelligent, frequently

well educated men, and there are many professional criminals who have suffered harsh treatment and who understand well the hardships of an autocratic regimen. Such men will gladly throw their best talents into a system which promises so much freedom and opportunity for self-expression, even though their duties become more onerous by so doing. We are familiar with some prisons in which the mental average is much lower and illiteracy so much greater that it would be exceedingly difficult to find a group of men, even of the warden's own selection, who would be capable of shouldering the burdensome responsibilities involved in self-government. In these institutions the selection might be the very best of the men, but they would not have sufficient good judgment and stamina to stand the brunts and criticisms of their fellows whom they could not always favor. The bulk of the masses acting selfishly would overbalance the good intentions of the few.

11. *Experiment of the Detroit House of Correction.*— An experiment in self-government was conducted about five years ago at the Detroit House of Correction, under the direction of the author. This institution, at that time, cared for all classes of adult prisoners — misdemeanants and felons; city, county, state and federal; young and old; first offenders and recidivists; colored and white; and there was a hopeless promiscuity of association with little opportunity for proper segregation. It would appear that a successful self-government in such a population would be a supreme test of such a system. There were, however, a great many long-time prisoners of high grade.

A. *Origin of the System.*—The plan originated in an effort to make the inmates responsible for their own conduct during entertainments and movie shows which had to be held at night when only three to five officers were present. It had previously been deemed inadvisable to take the prisoners out of their cells at night unless a large number of

officers were present, and consequently, entertainments were seldom given. All meetings had to be strictly supervised by numerous officers, standing in the aisles of the chapel, to keep order and to prevent outbreaks. The new superintendent permitted the inmates to elect by popular vote eighteen of their number to constitute a "central council," who would be charged with the responsibility of the deportment of the entire population. Later, when the population doubled, this group of representatives was increased to thirty-six. When the time came for the entertainment the cell doors were all opened and the men filed in a quiet and orderly manner to the chapel and maintained good order throughout the performance. They then returned to their cells and were locked up for the night. At first all the officers were very dubious and critical of the system, but soon accepted the plan as a very wholesome one; and the method continued for three years, during which the prisoners did not seriously violate their trust.

B. *Functions of the Organization.*—The seven hundred men always marched to and from the chapel and maintained a dignified, voluntary silence during the meetings, with a decorum unexcelled under any system of "hard-boiled" discipline. No rioting nor disorderly conduct ever occurred. The men took great pride in the fact that they were thus made sponsors for their own conduct. They listened attentively to the exercises, laughed when they were amused, encored when they were especially pleased, wept when their emotions were touched, and went back to their cells unguarded and without the slightest confusion. It was not necessary to have a single guard present. Their good deportment was engendered by the knowledge that the added privileges centered in their self-government. The athletics, games, schools and sports were conducted under the same supervision. During the three years experimental period the population completely changed and it was necessary

many times to explain the purposes and conditions of the self-government system.

Members of the Central Council voluntarily shouldered many onerous duties in addition to their regular daily employment, and, with few exceptions, did their utmost to maintain a spirit of harmony and good-will throughout the prison. No one was excused from his regular duties because of his office. No extra privileges were ever granted to the members of the council, such as special "eats" or other perquisites. Their whole interest had to be vested in better conditions for every inmate alike. It was really a co-operative plan to give the prisoners the opportunity to make suggestions and perform services for the benefit of the entire institution. No destructive criticism was permitted; their whole objective was constructive. The result was better discipline, co-operation, better sanitation, a more diversified and better balanced dietary, cheerful performance of irksome tasks, better educational facilities, more helpful athletics, a higher grade of constructive recreation and the opportunity for self-expression. Any attempt at autocracy by a member of the council was speedily discouraged.

C. *Production Committee.*—A very notable increase in the output of the factories was obtained without coercion. The prisoners, at their own suggestion, organized a "production committee," composed of inmate foremen, which held meetings once a week to devise ways and means of stimulating more efficient work in the factories. Closer inspection of the finished product was provided; improvement in the routing of material through the factory was secured; better methods of repairing and replacing broken machinery devised, and the production of the factory was doubled. A prison periodical was edited and published at the expense of and under the direction of the Central Council, which developed to a very satisfactory degree of efficiency as an educator of public opinion concerning mod-

ern prison methods and was a means of educating the prisoners.

D. *Provisions of the Constitution.* — The constitution was drafted by the Central Council, approved by the Superintendent, and adopted by the unanimous vote of all the prisoners. Its objects were stated as follows:

(1) To promote the general welfare of all inmates.

(2) To maintain a harmonious feeling between inmates and officials.

(3) To assist in the formulation of constructive rules for the direction of the inmates.

(4) To see that all accused inmates have a fair and impartial hearing and that every inmate has the opportunity for the highest possible physical, mental and moral development and

(5) To co-operate with the officials to bring production of the shops to the highest quality of efficiency.

E. The Relation of the Superintendent to the Central Council.—Throughout the constitution, expressions such as, "with the consent of the Superintendent," or "in conference with the Superintendent" occurred frequently, recognizing the supreme control of their chief and their implicit subservience to the authority of this official in all matters. They recognized the fact that it was advisable for the Superintendent to censor all their actions, even to the barring of certain prisoners from membership in the Central Council or disbanding the entire organization; and that no act of theirs could disregard the wishes of the men whom they chose to regard as their sponsors and advisers. Such a government as this implies that impartial justice will be given at all times by the warden and his subordinates. The Central Council always acted in the rôle of petitioners or advisers, and gladly yielded to the wishes of the Superintendent who took pains to show them the reasons for his rulings.

E. *Marks of Trustworthiness.*—It is not claimed that this experiment was the acme of success, although it had many features of excellence. For that institution, at that particular time, many constructive ends were attained which might have been impossible to accomplish in any other manner. The most serious criticism ever urged against the system was that three of the most trusted members of the Central Council took advantage of the trust reposed in them and escaped. The disloyalty was greatly deprecated by the rest of the prisoners, and if the culprits had been returned to the prison they would have been chastised severely by their fellows.

One mark of fealty displayed by the prisoners was that large numbers of them had ample opportunities to escape and refused to do so. During the Spring, Summer and Fall of each year a group of twenty men were selected each week end for an outing at the prison farm which was located thirty miles out of Detroit. Every Sunday morning these men loaded into a large open truck, with a prisoner as a driver, and made the trip through the city and country to the farm, which was conducted on the honor plan; and then back again at night, usually arriving at the prison after dark. Not a man attempted to escape and no depredations were committed along the way.

G. *Reasons for Discontinuance.*—The discontinuance of the Central Council became advisable after the Commissioners took action to discontinue caring for felons in that institution, and all the long-time male prisoners were transferred to the State Prisons. After that decision, the average term of sentence was only about thirty days, which was not sufficient time for helpful service in the offices of the council.

12. *Example of the Westchester County Penitentiary.*—One of the most noteworthy examples of self-government for short-termers, is the Westchester County Penitentiary,

New York, of which Mr. V. E. Macy was Commissioner at the time of its beginning and of which Mr. Warren E. McClellan is Superintendent. The scheme is known as the "Effort League." The maximum sentence in that institution is one year and a fine of five hundred dollars. The shortest sentence is ten days.

A. *The Grading System.*—A grading system is used at Westchester consisting of four classes, A, B, C and D, The prisoner can advance to higher grades or be demoted according to his deportment. If the prisoner is in grade A, B or C, he can earn a certain number of credits each day. For instance, if in class A, he can earn nine or ten credits each day; if he is in class B, from seven to eight credits, and in class C, from five to six credits. If he falls to class D, it is necessary for him to regain his standing in a higher grade before he can earn credits. These credits may be earned by co-operating in work, and perfect conduct with the group of which he is a part, or by individual effort. His remuneration for work depends upon his daily grades, and if he does not have a certain number of credits he must remain in the institution a sufficient length of time (within certain limits) to obtain the required number of credits for graduation.

B. *Group Credits.*—The purpose of the group credit is to teach the man the value of team work and to train him to co-operate with his fellows for the benefit of the entire group. It is thought that the average prisoner is too selfish and individualistic; and that if he is to learn his proper relation to the rest of the community, he must be cultivated to respect the rights of all other members of the group in which he lives and labors. The group is graded upon deportment; in corridors, dining room, assembly hall, or recreation grounds, and the entire group is held responsible to some extent for the diligence and conduct of each individual of that group. A man is not compelled to work,

but if he does not work he is locked in a cell, demoted to grade D, given a restricted diet and deprived of the privileges of the League and credits to his merit record. These advancements and demotions are decided upon by the League.

C. *The Effort League.*—Each new arrival is interviewed by a committee of the Effort League and informed as to its purposes and regulations and how he can profit personally by becoming a member. If a man proves himself worthy, after a trial period of ten days, he may become a member. Mr. Macy says: "The League is responsible for the conduct and order of all prisoners in the dining room, assembly hall, corridors, recreation room, and cell blocks, this meaning practically all order within the penitentiary, and also the baseball field; no guards are stationed in any of these places. In addition, it has extensive powers of recommendation to the warden. No man is allowed outside of the building, even as a member of the gang with a guard, without the League's recommendation. It also recommends as trusties all men who work as assistants to the butcher, as dairymen, teamsters, carpenters, bakers and painters. . . . Some high grade prisoners act as foremen of groups within or without the prison confines, and some highly skilled work has been performed by these groups. . . . Some men are recommended as trusties to be used as foremen in charge of other gangs of prisoners. The teamsters cart all freight from the railroad station, two miles distant, and do most of the carting on the property. The firemen at the central heating plant change shifts day and night without guards, and are being held from running away merely by their loyalty to the League. Many times the League has suspected a trusty of planning to escape, and has requested the warden to remove him from his trusted post and to assign him to duties within the building or to place him in a gang under a

guard . . . Every Saturday and Sunday afternoon all members of the League in good standing, which means generally ninety percent of our population, are permitted to play baseball in an open field some five hundred yards from the prison without guards in attendance. . . . The League officers are: a president, vice-president, a judge of the inmate court, a sergeant-at-arms, a public defender, and a secretary, all elected for a term of four months by popular vote. These officers form the cabinet and make all recommendations to the warden. The cabinet forms the link between the administration and the prison population. . . ."

D. *The Prisoners' Court.*—"The prisoners' court is one of the most important parts of the League's machinery. A prisoner may be brought before the court on the complaint of another prisoner or of any prison official. . . . It has been found necessary to limit the severity of the court's sentences, and the maximum sentence has been placed at expulsion from the League, together with five days in a cell on limited diet. Expulsion from the League means that the offender is turned over to the warden for discipline. He is then separated from the other prisoners and loses all privileges. In other words, the League excludes offenders from its social organization. If a man is expelled from the League he can, by a period of good behavior satisfactory to the League, be re-elected and start in class C and by continued merit work up to class A. The probation system, which was put into operation by the Effort League about three years ago, has proved very successful. First offenders are usually placed on probation for five or ten days and must report regularly to the probation officer assigned to their cases by the judge of the inmate court." [1]

E. *Not a Pure Democracy.*—There are many commendable features in this system, and it provides superior edu-

[1] *Proceedings of the American Prison Association.*

cational advantages to the inmates who should be taught, by closer contact, the workings and responsibilities of organized government. However, it is quite different from the Welfare League originated by Mr. Osborne. There can be no such thing, of course, as pure democracy, in any form of inmate self-government. The supervision, direction and limitations by the warden are essential, and he is really needed for guidance and instruction; all such systems have really been forms of co-operative or supervised government. Anything more than this would be not only ineffective, but dangerous. It is not advisable to inaugurate any system of self-government which delegates the authority of the warden to any group of prisoners.

In fact there is no example of an absolutely pure democracy extant in free society today, unless it is the local government of some New England villages, where all of the people of the community have a direct vote upon all the laws and regulations of the village, determining all of its policies, and directly delegating the details of government to its selectmen. Certain high officers of republics sometimes become very self-centered, thus temporarily rendering the government an autocracy to a large extent during their tenure of office. There are many examples of public office being used to build up a corrupt political machine to the great detriment of the entire community. It is not surprising, therefore, that criminals are prone to do the same. The warden is responsible for the conduct of his institution and the welfare of the prisoners. He must, after all, be the brains of the community and have the final say in all of its policies. Self-government is really, therefore, supervised, co-operative government.

Judging from the above facts, the advisability of self-government in any institution depends altogether upon existing conditions in the prison, such as average length of sentence, general intelligence and character of prisoners,

and the architectural arrangement of the institution. All of these conditions can be sized up by a conscientious and wise warden, better than by any person on the outside, who knows comparatively little about the warden's problems or the personnel of his population.

CHAPTER XII

CRIMINAL PERSONALITY

1. *The Criminal Character a Complex Problem.*—The personality of the criminal has always been an enigma too deep for philosophical analysis. Various astute students of the subject, after years of faithful observation, have formulated apparently tenable theories which were later discarded. When a generalization has been established, many exceptions have arisen to disprove the rule. Such eminent criminologists as Beccaria, Lombroso, Ferri, Morro, Drahms, Ellis, Wines, Boise and many others of more recent times have merely demonstrated by their studies the inscrutable mystery of the criminal personality.

2. *Difficulty of Scientific Classification.*—Criminals cannot easily be divided into classes because they are individuals with a multiplicity of mental traits, combined in varying degrees, never exactly alike any more than their faces are alike. Each has a nose, a mouth, two eyes, two ears, a forehead and a chin; yet no two look alike. Each has an intelligence quotient higher or lower than his fellows, with emotions moulded by a wide variety of inherited tendencies and environmental influences, which combination is responsible for an infinite variety of mental mechanisms. The causes of their criminal tendencies are therefore exceedingly hard to understand.

We behold their anti-social behavior as symptoms of their mental state, but they are ever breaking out in new and unexpected places, adopting new methods, perpetrating novel

offenses, and manifesting surprising traits of malevolence. They, in fact, do not understand themselves, and the most intelligent of them often wonder why they are criminally inclined. It is therefore a complex problem to ferret out just what elements in their nature need to be set right to deflect them from a life of crime. To undertake a scientific classification, the first question naturally is, whether there are any standards of personal identity to be established? Who and what is he? Is he merely a cantankerous individual morally, or does he have mental weakness or disease for which he is not responsible? Is he different from the common run of mankind? If so, in what respect? Is he normal, or subnormal, or abnormal? If not normal, what indicates his abnormality? What kind of co-ordination is there between his psychic and his physical being? What is the predetermining cause of his weakness? These questions are today beginning to find answer in the fields of psychology, psychiatry, anthropology, and sociology.

The quixotic blunder we have always made in the past is that we have sought to get an understanding of the criminal from statistical facts concerning his depredations. Following the example of the law we have taken for granted that all thieves are the same, all murderers are actuated by the same master motives, and that they are all equally responsible according to their offenses. We have tried to reason from the act committed, to the character of the actor. The law prescribes the same penalty for burglary, regardless of the malady suffered by the person committing the burglary, or of the kind of treatment needed to cure the trouble, of which the act of burglary is only one symptom.

3. *Early Attempts at Classification.*—The classification of the criminal has been attempted upon various grounds, from the earliest investigations of criminologists to the present time. Dr. Laurent, the eminent French criminologist, grouped them into three divisions as follows:

1. Criminals of thought
2. Criminals of impulsion
3. Criminals of instinct

Dr. Drahms in "The Criminal," also named three classes:

1. The instinctive criminal
2. The habitual criminal
3. The single offender

Ferri suggested the following classification:

1. The criminal insane
2. The born criminal
3. The criminal of contracted habits
4. The occasional criminal

Mr. Boies in "The Science of Penology" divided them into five classes:

1. Criminal madmen
2. The instinctive criminal
3. The habitual criminal
4. The single offender
5. The presumptive criminal [1]

It will be observed that there is a hopeless indefiniteness and overlapping in the above categories because of the attempt to combine political, social, biological and psychological genera in the same analysis. For instance, the instinctive criminal may also be a habitual criminal, and the born criminal may also be criminally insane.

4. *Classification by Mentality.*—Judging criminals from a pathological point of view they could be classified as follows:

1. Those who cannot be readily classified as mental patients for any other reason than that they show lack of mental balance by being criminals.
2. Those who are victims of certain mental conflicts.
3. The borderline and mentally defective.
4. The mentally diseased.

[1] Page 22.

5. Those who are mentally defective as well as mentally diseased.
6. The victims of both mental and physical deficiency.
7. Those who are both physically and mentally deficient, also mentally diseased.

There is little to be gained by classifications of this sort, because, after all, each offender is an individual problem requiring special treatment suited to his particular needs.

5. *Marks of Personal Identification Sought.*—The new school of criminologists are now concentrating upon the mental characteristics responsible for anti-social conduct which were first pointed out by Cesare Lombroso, and his school, as indicative of criminal tendencies. Lombroso taught that there are physical marks which are symptomatic of degeneracy, accompanying mental deficiency, and he wrote voluminously upon the supposed physical characteristics or "stigmata" which would enable criminologists to separate from society those who are potential criminals. This doctrine holds the view that there is a well defined criminal type.

6. *The Teachings of Lombroso.*—As far back as Aristotle, some meager attention was given to the study of the personal characteristics of criminals. Much later, however, the study was somewhat advanced by the observations of such physiognomists as Lavater and Dallo Porter.

The first pseudo scientific investigation of individual, physical, criminal characteristics was made by Joseph Francis Gall, a celebrated physician of Venice, who in 1785, through a treatise on phrenology, started scientific investigation of the brain and its functions. Lauvergne, Lucas, Thompson and Prosper, of England and France, continued these investigations, concluding from their studies that the phenomena of mental life are rooted in the physical. This study was continued by Lombroso while he was a professor at Turin, and he published his first volume, "L'Uomo Delin-

quents" in 1876, the same year the Elmira Reformatory opened in the state of New York. Lombroso sought to prove his theory by physical measurements of large numbers of criminals to establish norms of physical abnormalities which he called "stigmata." He concluded that the criminal is atavistic, marked by certain mental and physical stigmata, showing remarkable similarities to the savage personality. The generalizations of Lombroso were extremely sanguine, though very poorly founded, yet they made him internationally famous. For many years these findings were accepted by prominent penologists who were eagerly searching for any germ of truth which would enable them to recognize criminal personality by some scientific standard of prognosis.

As late a writer as Boies claims that "When the instinctive criminal is brought before the court for trial, in ninety-nine cases out of a hundred his very physiognomy betrays him."[1] This theory has been exploded and the notion of physical stigmata, as a symptom of crime, has been consigned to the waste heap.

7. *The Lombroso Theory Exploded.*—Lombroso's findings were disproved by the labors of Charles Goring in "The English Convict" and by William Healy's "Youthful Offender, Comparative Study of Two Groups, Each of 1000 Young Recidivists," in the American Journal of Sociology, July, 1916; also by several other studies of like nature. Dr. E. Laurent, the Parisian criminologist, claims that the same marks which characterize criminals are found among law-abiding men and that these signs are not sufficient to indicate criminality. It is, therefore, not likely that criminal anthropology will ever be able to sift out the criminal before he commits a crime by means of his physical peculiarities.

[1] *The Science of Penology*, pp. 236-237. G. P. Putnam's Sons, Publishers, New York and London.

8. *Rise of Individual Diagnosis.*—Notwithstanding the failure of Lombroso to demonstrate his preconceived hypothesis, the "positive school" thus found its origin and began to delve into the personal characteristics of the individual offender to determine the cause of his criminality, which has demonstrated the necessity for individual treatment.

As a logical outcome of this movement criminology in recent years has become closely allied to the profession of psychology and psychiatry. Psychological laboratories have been established in our universities for the purpose of diagnosing the mental conditions responsible for anti-social conduct.

1. To learn if the prisoner is mentally defective or diseased.
2. To determine the probable influence of such mental condition upon the commission of the crime.
3. To determine whether the defect or disease can be corrected and to recommend a course of treatment.
4. To direct the prison official in proper segregation of the inmate and to insure just and effective handling during imprisonment.
5. For selection of his employment and environment after parole.

9. *The Subnormal Criminal.*—For a number of years much study has been given to the relation of feeble-mindedness to criminality. Many varied conclusions on the subject have been published, but on account of the lack of reliable general statistics of crime as well as of the prevalence of feeble-mindedness in the general population we cannot scientifically estimate the proportion of criminality due to subnormality.

A. *Proportion of Defectives in Prisons.*—There is great difference of opinion among psychologists concerning the proportion of defectives of all grades in our prison population. We have heard some absurd assertions that there

are not more than ten percent while others broadly state that ninety percent are defective; still others quite as far from the truth, claim that no normal person would commit crime. Dr. White says: "Upwards of fifty percent of the criminals who are convicted and sent to prison are, upon arrival, suffering from some form of mental deficiency or psychosis which is obvious as a result of any well established and accepted method of examination." Doctor Herman Adler recently conducted a series of tests to more than 1600 inmates of the Penitentiary at Joliet, Illinois, and found comparatively little difference between the mentality of the prisoners and the men who were drafted for service in the World War. In fact, according to this study, there was a smaller percent of defectives in the prison than in the army. Dr. W. T. Root, Professor of Psychology in the University of Pittsburgh, gave individual tests to the prisoners of the Western Penitentiary and Rockview Penitentiary with the finding that 57.3 percent of the total population was defective. These tests embracing 1916 cases showed the following results:

818 cases or 42.7% were normal, dull normal or super normal;
367 or 19.3% were borderline cases;
662 cases or 34.4% were morons, and
69 cases or 3.6% were imbeciles.

Dr. Edwin H. Sutherland in "Criminology" sums up various findings of psychologists with the opinion that the lack of intelligence among criminals is of less significance than is generally thought. He says: "There is little to justify a conclusion that criminals differ appreciably from non-criminals in mentality. But even if a criminal is found to be feeble-minded, that is not in itself an explanation of his crime. A much larger proportion of males commit crimes, but when a criminal is found to be a male

that is not an explanation of his crime. Neither is a finding of feeble-mindedness an explanation.[1]

The actual fact is that the proportion of mental defectives will vary in different institutions and in the same institution at different times. They range in intelligence from morons down to idiocy. It is of inestimable value to diagnose by standard psychometric methods these minds, first, to understand the degree of their responsibility; second, to be able to classify them for treatment; third, to apply the proper kind of treatment and training which they may be able to assimilate; and fourth, to determine when, if ever, they are ready to be returned to society with safety to themselves and to the community.

B. *The Child Mind and Social Responsibility.*—Whatever findings there may be as to the proportion of defectives among criminals, all prison men know that a large proportion of their disciplinary troubles are among the mentally defective. Many criminals are full grown men in physical stature and pubescence, who have never emerged from the mentality of childhood. The defective criminal may possess all of the sensual faculties and desires of maturity but with the immature mental balance of infancy. He is a child of larger growth, with correspondingly greater capacity for evil. He lives in the present, has limited foresight, is easily influenced and readily surrenders to his instincts and passions. He may steal to satisfy his appetite, and is prone to employ sophistry and deceit to shield himself from censure. He may have small capacity for education and a tendency toward sexual habits. In fact, he is extremely atavistic and nearer the savage than the normal man; often manifesting traits of cruelty and malevolence which are beyond the pale of human understanding. By some accident of development, or by some freak of heredity, he is rendered a creature of a lower social order. He fails to understand his obli-

[1] Criminology, p. 109. Lippincott Co., Philadelphia.

gations to society, and he in turn is misunderstood by society. Some of these defectives are morons or borderline degenerates who are so nearly normal that it requires skill to detect the degree of their subnormality, and who require an equal amount of skill to train them to be useful in society.

Dr. William A. White says:[1] "Criminal nature is in its nature infantile. It is conduct of undeveloped, relatively infantile individuals placed in a position where adult responses, adult forms of reaction are expected of them. The designation "infantile" is here used to apply particularly to the affective, the emotional aspects of the mental life. It is not only possible, but in fact it is quite frequent to find an individual highly colored intellectually but of very childlike personality make-up on the emotional side. Now it is this lack of development on the emotional side that is fundamental to the understanding of the psychology of the criminal. The difference, therefore, between the criminal and the normal man is only one of degree, not of kind. In one the lack of appreciation of Mine and Thine, the lack of control of the temper and innumerable other characteristics have remained at their infantile stage of development and the conduct resulting is not assimilable by the body social."

C. *Findings of the Army Tests.*—Hoag and Williams say: "The examination of 1,700,000 of our American soldiers in the last war brought out some astounding facts in respect to the responsibility and fitness for citizenship, and these results are highly disturbing because they probably represent the average mental status of our population. For example, ten percent had only the intelligence of a ten year old child or less, and these were considered entirely unfit for service across the ocean; fifteen percent had only the mental level of eleven year old children; in other words, twenty-five percent were of distinctly inferior intelligence.

[1] *Insanity and the Criminal Law,* pp. 153, 154.

Roughly speaking, it may be said that based upon these carefully made psychological army tests, twenty-five percent of our population have the necessary ability for some sort of leadership, and of this proportion only about five percent possess superior intelligence; fifty percent are mediocre, and twenty-five percent are inferior, the lowest of this twenty-five percent representing the actual feeble-minded, and including a number not far from that of those who have superior intelligence."[1]

D. *Higher Degrees of Subnormality.*—The higher degrees of feeble-mindedness have only recently been understood in a manner that would be of any practical use to the prison authorities. Up to a few years ago it was recognized that a large number of persons were queer, lazy, indolent, sluggish, brutal or silly, but no one knew that the real cause of their eccentricities was due to retarded development and that the quantitative values of their mentalities could be accurately measured. In some circles, even today, a moron, who is a potential criminal, may continue to live in a community for many years, perhaps all his life, with little attention paid to him. A peculiar set of circumstances may at any moment render him a dangerous character, capable of the most dastardly crime. It is true that many of these characters spend their entire lives in the various communities without ever committing crime but they are usually susceptible to criminal suggestion and it remains a fact that they are a grave menace to the community in which they live. Whether society will ever weed out potential criminals before they commit the overt act of crime remains for future social engineers to work out. This would, of course, entail prodigious expense and would be practically impossible. It is assured, however, that when they do become involved in criminal depredations and have demonstrated their inability to deport themselves in conformity with the

[1] "Crime, Abnormal Minds and the Law."

laws, and are sent to prison, they should be treated, if possible, in such a manner as to render them safe to society; or if this is not possible, they should be kept in isolation during the rest of their lives.

10. *The Psychopathic Group.*—The abnormal groups also include a variety of criminal characters with which the prisons have always had the greatest difficulty. They may approach conditions kindred to various kinds of psychosis, yet not capable of being classified under that heading, and many of them may be mere disciplinary problems. They may be moral imbeciles, degenerates, psychopathic liars, swindlers, malingerers and many other kinds of individuals whose diseased mentality is responsible for their criminal behavior.

McKim makes the sweeping charge that by default of inheritance, all mankind is mentally degenerate. "Impelling ideas" which cause people to act in an eccentric manner, abnormal fears of "impending danger," "celestial phenomena," etc., are "mental stigmata from which approbrious condition no man in civilized society is entirely exempt because of our motley inheritance." [1] A stronger degree of mental aberration might impel the victim to acts of crime. These defects, he infers, are slight variations of the more pronounced mental conditions which every criminal possesses. In many cases a psychopathic condition is not discernible even to the psychiatrist at the time of examination, and to all appearances the patient is normal, but at rare intervals abnormal symptoms become apparent to the disciplinarian, who finds that some aggravating circumstance precipitates an explosion serving to indicate an unbalanced personality.

Hoag and Williams say: "As to the cause or causes of the psychopathic type of constitution, little is as yet known. Defective metabolism, mental complexes and various func-

[1] *Heredity and Human Progress,* W. Duncan McKim, M.D., Ph.D.

tional mental defects are all factors which must be considered. As Healy says, the general characteristic of this type is abnormal reaction to some of the ordinary stimuli of life.

"Unusual reactions are almost universal in members of this class. They are often eccentric, selfish, irritable, very suggestible, and easily fatigued mentally. The ease with which they fall into anti-social conduct has often been observed. Healy notes particularly weakness of will, inability to cope with the social demands for self-restraint, the peculiar feeling in some cases of impotence, the pathway plentifully sprinkled with good intentions.

"Among this host of constitutional defectives are found many of the alcoholics, drug users, prostitutes, sex perverts, hoboes, swindlers, liars and petty thieves. This kind of abnormal constitution is at the bottom of many divorce court cases. Incapacity for adjustment to ordinary conditions of life is perhaps the most characteristic feature of this class, this apparently being based upon inability for following out anything consecutively and systematically to the end."[1]

A. *Slightly Psychopathic Personalities.*—There are many behavior cases whose mentality is not quite normal, yet not easily discerned as abnormal by any method of analysis known at present. They are usually a source of disciplinary trouble in the prison and a constant menace to society on the outside. There are many of these cases who fall into crime because of maladjustment, due to their peculiar weaknesses, who finally discover themselves through proper training. The psychiatrist finds traits of psychopathic personality in a surprisingly large number of individuals, many of whom, when properly adjusted, live fairly successful lives in free society.

It has now become a matter of scientific knowledge that in a surprisingly large number of criminals, there exists a contorted neural organization, whether inherited or ac-

[1] *Crime, Abnormal Minds and the Law,* pp. 105-106.

quired. The failure of a single function, emotional instability, or the perversion of some mental process, constitutes an unbalanced condition which may for a long time pass unnoticed, but is likely to become exaggerated or intensified under the stress of sudden excitement; such minds are too loosely constructed for times of crisis. Some minds are sluggish and stupid, or brutal, or excitable, or lazy, or queer—in every one of which conditions a certain chance for crime is given; not meaning that they are born criminals, but that nature has provided poorly for them in the struggle for social existence. They are slightly less fit for the strenuous requirements of the herd than others, but their social tendency is only one of the many dangers which life has in store for them. This same abnormal condition may render them unfit to secure a position or to keep it after they have it, or to hold friends, or to protect themselves against disease. In some cases an almost imperceptible degree of epilepsy renders the patient a dangerous potential criminal.

B. *Emotional Instability.*—There is one condition generally noticeable in men and women who habitually violate the law, which is possibly more apparent than any other,—I refer to emotional instability. This defect, which is often accompanied by lack of foresight, accounts for a tremendous amount of delinquency. They do not have the power to surmount the evil influence of their environment. They crave adventure and are never long satisfied with existing conditions. Many of them are very suggestible and are easily swayed in their tastes and affiliations. Their range of emotions and impulses, not broad, are ever on the surface. Their resistant powers are functionally impaired, rendering them incapable of waging a determined fight in response to the demands of society for personal morality.

C. *Examples of Instability of Character.*—I have had many cases of men who have requested me to lock them up or give them a change of employment so that they would be protected against the overwhelming temptation to escape

or get into other trouble, temporarily realizing that they were not sufficiently strong in moral force to resist the temptations, even of prison life.

One warden told me that he held in custody a man who had been trusted on the outside of the walls a year. One day he came to him with this unusual request: "You had better lock me up; I feel a strange impulse to run away and I am sure I cannot control myself."

"Do you think it is necessary?" asked the warden.

"Yes, I am sure you had better lock me up."

He took the man at his word and did as requested. Later another trial as trusty was given and the man was faithful. Here was a master impulse to escape, a spirit of loyalty combined with a weak will, which condition was possibly responsible for the man's original offense.

A pickpocket once said:

"When I see a man with a watch in his pocket, I feel that I must take it. You see, although I do not need the money I have to steal."

D. *Distorted Viewpoints.*—The kleptomaniac has an uncontrollable impulse to steal the most trivial and valueless articles, and he cannot restrain himself although he knows that he does not need them. The drunkard or "Junker" resolves time after time to break his habit, but comparatively few have the manhood to keep their resolution. The moral fibre of the abnormal criminal is twisted by hereditary causes, physical injuries, or environmental influences in all possible combinations, causing mental disturbances which prevent the patient from exercising a judicious attitude toward the tenets of the rest of society. On account of his abnormality and consequent weakness of resistance he is not enough of a man to win out in the struggle against the evil proclivities of his environment. Dr. White says: [1]"The criminal act which finally leads to a prison sentence is but

[1]*Mental Hygiene.*

the outcome of a life of distorted viewpoints, of standards of conduct, turned and twisted out of all resemblance to those with which the normal person is familiar in his daily living."

11. *The Insane Criminal.*—There is a large group of neural cases, which are not regarded as criminally responsible for their acts. This kind of personality frequently gets into prison through the failure of the courts to discover the real cause of his anti-social behavior. He may, indeed, be a madman, a paranoiac and a victim of hallucination such as that of Schrank who shot Roosevelt, Czolgosz who slew McKinley, or Guiteau who killed Garfield. We will not consider extensively these extreme forms of insanity, though they are very common, except to say that the courts by the means of alienists should separate them from the criminally responsible type and consign them to proper hospitalization.

12. *Mental Conflict Cases.*—The teachings of modern psychologists upon the relation of criminal conduct to mental conflicts are of utmost importance to psychiatric research in analyzing, classifying and treating the populations of our prisons. For many years Freud, Jung, and many others have been delving into the mind to secure glimpses of the deeper strata which they call the subconscious. In their search for mechanisms responsible for neurosis, they have revealed many facts of great assistance to crime diagnosticians, clearly pointing to the fact that many cases of formerly baffling criminal conduct can be explained upon the basis of mental conflicts.

A. *The Freudan Doctrine.*—According to Freud, all our thinking aims at wish fulfillment. It is easily understood that we are subject to conflicting wishes or impulses and in order to think clearly and to reach the goal of thinking, which is our conclusion, we have to rule out a lot of thought which must be repressed.

(1) *Instinctive Urges.*—These wishes or urges have their origin in the primary instincts. B. Hamblin Smith says:[1] "These primitive instincts are, as we have said, the mainspring of all mental life. An instinct may be regarded as the expression of emotion which arises in response to a group of sensations. And all the instincts may be grouped under four, or perhaps three, main heads. We have the instinct of self-nutrition, the instinct of self-preservation (probably the first of these two instincts may be regarded as a part of the second), the sex instinct, and the herd instinct which impels men to act as members of some larger or smaller group of society. The relative importance of these main instincts is a question which has given rise to much acrimonious controversy. To the author there seems to be no doubt as to the supreme importance of the sex instinct. There is its complexity, the large part which it has shown to play in the production of neurosis, the constant conflict between it and the herd instinct, and the fact that the primary object of every living organism is the perpetuation of its species. Regarded from the animal standpoint, and this is how the unconscious may in a sense be said to 'regard' the matter, the whole aim of man's existence is the perpetuation of its species."

(2) *Contents of the Subconscious Mind.*—Freud has pointed out in regard to the great wishes of life, that there is no such thing as forgetting; on the contrary the great wishes which we repress, continue in what we would call an imprisoned existence in a part of our personality which, for convenience sake, is called the subconscious or unconscious. It is shown by Freud that the contents of the unconscious is much larger than the contents of the conscious. Furthermore, that varying according to certain conditions, the wishes buried in the subconscious try to penetrate again into the conscious, in which effort they are hindered by a

[1] *The Psychology of the Criminal.*

mental force which Freud calls the "censor." This censor is sometimes successful in suppressing these wishes, and sometimes not. This depends upon the strength and the relative power of the repressed wish. The difference between the conscious contents and the subconscious contents is primarily a socially determined moral one. The subconscious impulses are, for the greatest part, pure egoistic wishes aiming at the unconditioned expression of personal desires. They represent archaic modes of thinking and living. The satisfaction of these wishes would only happen in a society without moral restraint. They really comprised the habits of life of the generations when humanity was in its childhood. It is easy to understand that they pertain to animal activities and habits, and are based on the craving to continue existence individually and racially, or for sex, nutrition, and procreation alone.

(3) *The Cultured Censor.*—Freud's "censor" is a mental force which is the outcome of civilization, really the representative of the herd, the policeman guarding the behavior of the present generation, and that part of our personality which is up to the present level; hence life is a constant battle between the conscious and the subconscious. The normal man has sufficient power to repress his low desires. (Let us not forget that the subconscious content is not known to ourselves.)

(4) *The Control of Powerful Impulses and Sublimation.*—These ideas unite in the subconscious mind with great emotional energy to force their way into consciousness. Some writers refer to these as complexes and a group of them as "Constellations." It is possible for the energy manifested by the repressed emotions to be "sublimated" into legitimate channels. For instance, the sex instinct may be safely directed into philanthropic effort, religious service, intensified business or professional activity, chivalry, recreation, etc.; but if it is impossible to sublimate it,

the psychic energy of the repressed complex may escape the censor.

(5) *Results of the Conflict.*—Freud devotes a great amount of space in his books to the consideration of the various dream phenomena; attributing the exaggerated and abnormal situations in dreams to these complexes and is confident that they have a symbolic interpretation of repressed sex impulses. These dream experiences, very common to mankind, illustrate the thought processes of the neurotic, whose conscious processes are so occupied in repression that the emotional energy evades the censor and expresses itself in abnormal actions, the real cause of which the patient does not understand. They sometimes take the form of a physical symptom and the patient has paralysis, hysteria, blindness, or some other malady. If the repressed complex escapes into consciousness in a symbolic form and occupies the entire conscious mind, it is called a psychosis. A psychosis may cause the patient to talk and act in strange and unconventional ways.

The stronger the subconscious complex, the stronger repression is necessary. In many cases there is such an inward conflict raging in the patient, that there is no time, strength, nor opportunity left to busy himself with anything else in life than the conflict. Hence his total occupation with his own personality and the exclusion of normal demands of life.

(6) *Function of the Psychiatrist.*—From this brief explanation of mental conflicts, it is easier to understand how many people of culture, as well as the uncultured, have a tendency to act contrary to the mandates of organized society.

Considerable success has been attained in curing these conflicts through psychoanalysis by securing the cooperation and confidence of the patient, determining the exact nature of the repressed constellations, clothing them

with fresh emotions and turning them into helpful and constructive channels; however, it is regarded as hazardous to the patient for an unskilled person to attempt such an analysis and treatment.

13. *The Normal Criminal.*—From the foregoing analysis of subnormal and abnormal personalities one might wonder whether any normal person ever becomes a criminal. From our knowledge of prison populations we do not hesitate to say that a very large proportion of criminals are apparently normal. These cases are discussed under the captions The Habitual Criminal and The Single Offender.

A. *The Habitual Criminal.*—The habitual criminal is the professional expert who makes crime his life vocation. The crime habit like all other habits can be acquired by frequent repetition. Habits of vice, laziness, sexual perversion, intemperance, and criminal acts are fixed by continuous indulgence. The foundation of the crime habit is usually laid early in life by the practice of small errors and undiscovered dishonesties. Petty thefts and successful deceptions in childhood, the lack of moral culture, the influence of evil companions and immoral environment tempt the youth to advance in small steps from insignificant wrongs to the most serious offenses. On account of inadequate agencies for detecting crime, or because of inefficient methods of prosecution, the young criminal may have actually become an habitual offender before his first conviction.

(1) *Professional Criminals.*—There are many professional criminals who ply the art of thieving in a surprisingly ingenious manner. They make a business of crime as assiduously as a physician practices medicine. They carefully perfect every detail of their nefarious escapades, and their astute skill in the perpetration of crime is so adroit as to lead us to believe they would have met with as much or more pronounced success if they had applied their genius to a more legitimate profession. They are apparently so suc-

cessful in committing crimes and in avoiding arrest that they continue to ply their trade, until through some blunder they are finally detected and arrested. These men are commonly known as pickpockets, confidence and bunco men, store and safe burglars, sawdust and green goods men, counterfeiters, forgers, adventurers, etc. They not infrequently undertake very difficult feats and glory in their ability to carry out their deceptions successfully.

(2) *Adroit Methods Employed.*—A great many interesting stories are told by chiefs of police and detectives of the ingenious methods used by these professional criminals, showing that the man who follows such unlawful pursuits must have patience, intelligence, mechanical skill, industry, fertility of resources, and courage in a high degree. One gang operating in New York, for fifteen years successfully evaded arrest, during which time many honest bank employees suffered in reputation, and not a few were unjustly incarcerated. The thieves did not take all the money and valuables; they helped themselves to a small portion of the contents of the safe, and it was this fact that threw the officials off their guard and brought the employees into disrepute. The burglars familiarized themselves with the make and pattern of the lock, and then bored a hole within a short distance of a spindle which held the tumblers. With the use of a common darning needle the tumblers were dropped and the safe opened. The hole was then stopped with black putty and the door locked. Skilled robbers sometimes spend months studying a lock before they make an attempt to commit the burglary. If they find a lock of a new pattern they will manage to get possession of one, whatever it costs, and taking it apart will study its construction until they know its strong and weak points and how to master it just as well as its maker. Burglars have, in some instances, rented a store adjoining a bank, solicited trade, and seemed anxious for business, cultivating acquaintance with the clerks of the

bank. As soon as all is ready they cut through the partition and crack the safe or go into the safe from the basement. They cover their tracks by removing only a part of the money. The stock in the store next door is suddenly abandoned and no clew is left as to the whereabouts of the robbers.

(3) *The Modern Professional.*—Modern burglar alarms, highly tempered steel, and more secure locks, have turned the drift of crime to a large extent away from the safe cracking to banditry, house and store burglary, forgery, confidence games, purse snatching, and pocket picking, all of which are much more easily accomplished, though involving an equal degree of adventure and abandon. The average bandit is the boy, just out of his teens, who has led a wild and unrestrained life in a family with low moral stamina, in slum environment and the promiscuity of the streets and alleys of a large city. Pickpockets sometimes pursue their treachery under the cover of a coat or shawl carried on their arm. Seeing a thrifty passenger on the car paying his fare, they learn from the size of his wallet that he has money. Several together sometimes jostle the passenger from all sides, and one of the thieves with hand concealed under his coat, lifts the watch out of their victim's pocket and with a dexterous twist breaks it loose from the chain, drops it into the other hand and passes it to a confederate who escapes. He secures the wallet or billbook from the pocket of his victim and gets away with it in like manner. Not long ago in one of our large cities a lady placed upon the counter beside her a well filled purse. She was talking socially with the sales lady. She finally picked up her purse and opened it—nothing in it but paper. It had been exchanged while she was standing there but no one remembered the thief.

B. *The Single Offender.*—We have yet to consider the most hopeful type of criminal, usually known as the single

offender. He is sometimes classed as the accidental criminal. This is an individual, who because of accident, extreme need, sudden passion, or ignorance, is led to violate the law but does not continue in crime. A common example of the single offender is the boy who is suddenly seized with the desire to drive a car, appropriates an automobile from the curb, more out of the spirit of adventure than out of a real desire to follow crime as a profession. The single offender is sometimes led into temporary crime by some force of circumstances, like Victor Hugo's fictitious "Jean Valjean," who stole a loaf of bread because of dire poverty; but who, on account of untoward circumstances, was the unfortunate victim of suspicion and extreme misfortune throughout his life. This group also covers a large number of cases due to mental abnormalities responsible for a single offense, but apparently corrected before another is committed.

(1) *The Criminal of Passion.*—The accidental criminal is sometimes the criminal of passion, who momentarily allows a masterful emotional mechanism to determine his future destiny. In a fit of anger he slays his enemy, or friend, or even a member of his own household. A man may steal in time of dire necessity to satisfy his craving hunger, or he may succumb to a powerful temptation and embezzle funds entrusted to his care. He may be a borderline case, requiring only the apprehension, conviction and disgrace of being a public charge to re-establish him on the honorable side of the crime line; in which case even probation usually suffices for his permanent correction.

(2) *Recidivists Made by Unwise Prison Methods.*—In the absence of adequate diagnostic facilities in the courts the prisons are compelled to handle vast number of these offenders. There they are forced to mingle with all classes of hardened criminals—the worst possible treatment society can administer. In some of our old-time prisons we have

heard the remark: "If I were not a criminal originally I certainly would be one by the time I am discharged"; and, on the other hand: "I do not think I am criminally inclined, but, if I were, my disgust at the character of these degenerates would forever be a warning to me never to commit another crime." There are many men sufficiently strong to resist these degrading influences; while others, because of the schooling in crime they receive at this critical time and the discouragement of their disgraceful plight, become recidivists. In every prison there are many of these accidental or circumstantial offenders whose crimes have seemed too serious for probation, but who are compelled to learn through the hardships of prison life that a life of crime does not pay. They should never be imprisoned with hardened criminals. For this reason there is greater hope for modern correctional methods employing proper segregation and individual treatment. One sentence for this kind of an offender, in the proper institution, is sufficient. A more general use of the suspended sentence, if judiciously employed, will usually prevent the first offender from a criminal career.

(3) *Foolish Pranks of Adventurous Youths.*—Thoughtless pranks, impelled by a spirit of adventure, without sufficient foresight to measure consequences, often result in the first offence, for which arrests may or may not be made. In the more reasonable and well-balanced minds the fear of discovery and a smitten conscience suffice to stop the criminal course without punishment, but in other types successful evasion of detection serves as an encouragement to try again. These evasions, when finally discovered and punished, as a sum total constitute the so-called first offence. Crass prison methods, applied to the comparatively harmless offender, may change him into a habitual criminal.

(4) *Stupid Penology and Young Criminals.*—I remember one instance of a young boy, with apparently good train-

ing, who thoughtlessly threw a stone through a window of an old factory. The accurate throw and the clatter of glass tempted the boys in the group with whom he was playing to use the remaining windows as targets, until they had broken a large number of them. They were caught in the act and, while their relatives offered to pay the damage, they were sent to the reform school, where they remained until they reached their majority.

After a long experience in the reform school the young man was paroled. Several years of hard work on the railroad developed homesickness and he returned to his old home town to seek employment. Several days he searched in vain. One day he sat just outside the railroad station all afternoon, while passengers arrived and departed on the trains. Immediately after the last train had gone it was discovered that an old gentleman who kept a grocery on the other side of the street had been brutally murdered. Suspicion rested heavily upon the young man, who already had a reform school record, and he was arrested, charged with the crime. The evidence was all purely circumstantial, for there was no proof that he had left the station during the afternoon. He could not establish a complete alibi because no passenger was with him all the time, and he could not prove that he had not left his loafing place. He was convicted of manslaughter and given a long sentence in the penitentiary. His reform school record was a great embarrassment, making it more difficult for him, not only in the trial but also in the penitentiary. His subsequent life of crime can be laid at the door of stupid penology. The police and prosecutors assume that they are obliged to fasten the guilt of a crime upon some one to establish their reputation for sagacity. This mistaken idea has been responsible for many prison records, to the impoverishment of society and the destruction of fairly decent individuals.

(5) *An Innocent Beginning.* — Another case of like

nature was that of a splendid youth who was sent to prison accused of assisting his brother to escape from the county jail. His brother was held on the charge of bootlegging and was afterwards caught and found guilty of the offence. The young man happened to make a trip in his automobile to the bedside of his sick sister at about the time the jail delivery took place, and it was inferred that he had time to assist his brother to escape during the time he was on the road. A strong motive for the crime was presumed, which made it apparent that he was the one who assisted. The subsequent affidavit of his brother, that another bootlegger had been the real offender, did not relieve the unfortunate young man from a prison record. Had he not been a man of more than average intelligence and ambition, which was conserved by a course of sane treatment in the reformatory, he might have been ushered by this experience into a real life of crime.

(6) *Improper Attitude of Public Toward the Paroled Prisoner.* — Many who would have been single offenders have continued in crime because of improper parole methods or because of the time-worn opinion "once a criminal always a criminal." An old man who had accumulated several prison records confided to me his interpretation of the cause of his recidivism. After his first release from the penitentiary he imagined he could hide himself in the crowds and conceal his prison record. He secured a position without revealing to his employer anything about his previous life. He was determined to succeed, and worked hard, filling the position very acceptably, and was promoted accordingly until he filled the most responsible place in the office, where he had custody of most of the funds. A member of the police force came into the office one day to secure a favor which could not be granted. He recognized the faithful employee as a former prisoner and, through spite, informed the employer, who speedily made an investigation and dis-

charged him. This was such a disconcerting experience and work was so hard to find that he drifted back into crime. He was again convicted and returned to prison.

The next time he sought a position he informed his employer that he was a convict on parole and assured him that he wanted to atone for the past. He was given charge of a livery stable at night. Several months later, during which time he had gained the confidence of the employer, an ex-convict acquaintance came to the stable and requested the privilege of sleeping in the hay-mow. Our friend refused, but offered his prison-made friend the price of a night's lodging, which was refused. The convict threatened to get even, and went to his employer with the astounding information that the faithful employee was a discharged prisoner. The employer said: "You can't tell me anything about that; he told me all about his trouble before I engaged him." The convict then spread the word among the other employees. Thereupon they refused to work under him, and the employer was forced to discharge him. By this time the unfortunate man was so discouraged that he concluded that there was no use trying to make an honest living. He drifted back to old-time "pals," who were only too eager to help him secure "easy money," and he was lost.

There is a recent account of a young girl who, seeing her family in dire straits, committed arson in order to get the insurance money. In another case a woman of refinement and education, who had fallen from prosperity into real want, stole to pay her son's school fees. When arrested she refused to give her correct name so that the lad might not be dishonored. She might never have been identified had she not been recognized by a lawyer in court. She died of a broken heart a few days after her trial. So we might go on indefinitely recording various instances, such as the embezzlement of funds to save the home; homicide to avenge intrusion upon the sacredness of marriage, etc. Every effort

will, at no distant day, be made by society to save the first offender from becoming a habitual criminal.

From the above brief catalogue of the various mental states and social conditions responsible for criminal conduct we are impressed with the intricate and complex problems for which society is assiduously trying to find a solution. Such cases cannot be prescribed for collectively but individually. Vindictive methods have taken no thought for the malady responsible for crime, but prescribed en masse treatment, flagrantly unsuited to the real malady of the individual criminal.

CHAPTER XIII

THE DIAGNOSIS OF PERSONALITY

1. *Psychological Research in Human Conduct.*—Human behavior is the result of mental attitude. To understand fully the thought processes of an offender would enable us to determine the causes of his evil conduct and to suggest possible remedies; but we are a long way from knowing the human mind. There are boundless areas in the realm of personality which the searchlights of psychology have not yet illuminated. The mysteries of mind are so intangible and elusive that the most persistent research methods discovered to date, have been able to penetrate but slightly into the multiform mental mechanisms which go to make up criminal motives and tendencies.

2. *Mental Factors Classified Generally.*—Dr. Healy has given a list of general mental factors which he found as "bases of delinquency" which are significant: "Mental dissatisfactions; those developed from cravings of no special moral significance in themselves, or even from unfulfilled creditable ambitions. Criminalistic imagery, sometimes fairly obsessional, which persists, and is strong enough to impel misconduct. Irritative mental reactions to environmental conditions, seeking expression or relief in misdoing. The development of habits of thought involving persistent criminalistic ideas and reactions. Adolescent mental instabilities and impulsions. Mental conflicts, worries or repressions concerning various experiences or matters of mental content. These sometimes interfere with that smooth working of the inner life which fosters socially normal conduct.

The misdeed here, too, may be a relief phenomenon. The chronic attitude of the offender, representing himself to himself as one like Ishmael, whose hand shall be against every man and every man's hand against him. The remarkable phenomenon of anti-social grudge may be included here. Mental peculiarities or twists which are agents in the production of anti-social conduct, but which do not overwhelm the personality enough to warrant us in grading the subject as aberrational. Aberrational mental states: All the way from fully developed psychoses to temporary or border-line psychotic conditions. Mental defect in any of the several forms described in our special chapter on the subject."[1]

3. *The Necessity for Specialization of Diagnosis.* — A casual study of these mental factors discloses the wide ramifications of each class and the necessity of further analysis of each into a diversity of secondary classes. It seems that each class of factors is broad enough to appeal to the profession as a specialty. Medicine has specialized on groups of physical maladies much more individual than any one of these subdivisions. The eye, ear, nose and throat specialist, the cancer specialist, or the heart specialist, can confine his research analysis to a much more concise set of pathological factors than is represented by any one of the above general classes. We are making progress when we distinguish the psychologist from the psychiatrist or the alienist; but when we undertake to handle the kaleidoscopic composite of infinitesimal factors which go to make up the criminal personality by one cure-all, whom we designate as a penologist, our puerility is pathetic.

4. *Dr. Glueck's Classification Shows Need of More Intensive Research.*—Dr. Glueck has made an analysis of 608 prisoners admitted to Sing Sing in nine months' time, whom he analyzed as follows:

[1] *The Individual Delinquent,* p. 23. Little, Brown and Co., Boston.

"(1) Of the 608 cases, 28.1 per cent possessed a degree of intelligence equivalent to that of the average American child of twelve years or under.

"(2) Of the 608 cases, 18.9 per cent were constitutionally inferior, or psychopathic, to so pronounced a degree as to have rendered extremely difficult, if not impossible, adaptation to the ordinary requirements of life in modern society.

"(3) Of the 608 cases, 12 per cent were found to be suffering from distinct mental diseases or deteriorations, in a considerable number of whom the mental disease was directly or indirectly responsible for the anti-social activities."[1]

The important feature of Dr. Glueck's analysis in this connection is the recognition of the need of more intense analysis of these groups, as well as of the unclassified group. He says: "That a finer differentiation of types will be possible when we come to a purely clinical presentation of the subject cannot be doubted, and in one instance, at least, we are almost certain to be able to add an additional group—The Epileptic Group." [1]

Dr. Glueck proceeds to show the wide diversities of behavior possibilities in the "Defective Group," the "Mentally Diseased or Deteriorated Group" and the "Psychopathic Group," as influenced by environment and the "mode of reaction which these individuals exhibited in their various contacts with society," after which he makes this significant statement about the Unclassified Group: "The Unclassified Group embraces all cases which could not be classified within any of the three preceding groups. It does not mean, of course, that we are dealing here with what is generally considered to be a normal human being. It simply means that our knowledge concerning a great many of the individuals embraced in this group is still so deficient as to make

[1] "Mental Hygiene Journal," for January, 1918.

it unwise at this time to classify them definitely. It is our belief that a more intensified clinical study of these now unclassifiable cases will throw a good deal of light on the causative factors in criminal behavior."[1]

5. *Diagnosis Should Indicate Proper Treatment.*—It is not the purpose of the author to delve into the intricacies of psychological analysis and psychiatric diagnosis in this connection, but rather to point out the need of such intensive study being more generally made by our most talented experts. Voluminous writings upon the subject have shown the necessity for every institution to establish a clinic. The conspicuous absence of therapeutic measures suggested in all the diagnostic findings to date suggests the striking need of specialists stationed at the prisons, which are the hospitals where treatment is supposed to be administered. There can be but little value in the knowledge of a man's affliction if no remedy is available.

The crying need is a scientific use of such diagnostic data, as is available, in the subsequent treatment. Remedies will thus tend to keep pace with diagnosis. It is commonly taken for granted that many forms of mental defect and disease responsible for crime cannot be cured; but how can we be certain of this if we make no persistent research in that direction? The mental hospitals have been successful in the cure of some forms of insanity—enough, in fact, to encourage the continuation of research at these hospitals and warranting the great outlay of talent and money. Most of the wonderful remedies in the field of medicine and surgery have come to light in medical hospitals, where research is the keynote. We need specialists in every prison and will accomplish little until we have them.

6. *Stanford Revision and Extension of the Binet-Simon Intelligence Scale.*—In recent years many tests have been

[1] "Mental Hygiene Journal," for January, 1918.

devised and standardized by educational psychologists to determine mental age. In 1905 two psychologists of Paris —A. Binet and Th. Simon—published a scale of mental standards, which were revised in 1908 and in 1911. These tests were eagerly grasped by psychologists all over the civilized world and gradually perfected. Shortly before the World War group tests were evolved for the measurement of the intelligence of individuals when tested in groups, which greatly facilitated the determination of the intelligence of groups of soldiers, schools and industrial employees. The results of these tests, used during the war, stimulated research in this field, until we can now grade the intelligence of prisoners, industrial groups, school children, and children of pre-school age with a fair degree of accuracy.

The tests now most generally employed are those of the Binet-Simon scale of intelligence as revised and extended by Lewis M. Terman, Professor of Education of Leland Stanford Junior University, which are commonly called the Stanford Revision of the Binet-Simon tests.

Professor Terman, in justifying the utility of these tests, says: "But why do the feeble-minded tend so strongly to become delinquent? The answer may be stated in simple terms. Morality depends upon two things: (a) the ability to foresee and to weigh the possible consequences for self and others of different kinds of behavior; and (b) upon the willingness and capacity to exercise self-restraint. That there are many intelligent criminals is due to the fact that (a) may exist without (b). On the other hand, (b) presupposes (a). In other words, not all criminals are feeble-minded, but all feeble-minded are at least potential criminals. That every feeble-minded woman is a potential prostitute would hardly be disputed by any one. Moral judgment, like business judgment, social judgment, or any other kind of higher thought process, is a function of intelligence.

Morality cannot flower and fruit if intelligence remains infantile.

"All of us in early childhood lacked moral responsibility. We were as rank egoists as any criminal. Respect for the feelings, the property rights, or any other kind of rights, of others had to be laboriously acquired under the whip of discipline. But by degrees we learned that only when instincts are curbed and conduct is made to conform to principles established formally or accepted tacitly by our neighbors does this became a livable world for any of us. Without the intelligence to generalize the particular, to foresee distant consequences of present acts, to weigh these foreseen consequences in the nice balance of imagination, morality cannot be learned.

"When the adult body, with its adult instincts, is coupled with the undeveloped intelligence and weak inhibitory powers of a ten-year-old child, the only possible outcome, except in those cases where constant guardianship is exercised by relatives or friends, is some form of delinquency." [1]

There is a great variety of opinions as to the relation of feeblemindedness to criminality, as was pointed out in another chapter. Sutherland says "there is little to justify a conclusion that criminals differ appreciably from non-criminals in mentality," [2] but there are many others who profess to find a very definite relation between the infantile mind and potential criminality. There are many factors to be taken into account in summing up the criminal personality. This connection can be established more accurately by a study of daily habits and reactions to the demands of the various departments of a reformatory régime than can be determined by a single diagnosis. The diagnosis, therefore, must be all inclusive before we can possibly determine

[1] *The Measurement of Intelligence*, pp. 11-17. Permission Houghton Mifflin Co., Boston.
[2] *Criminology*, p. 109. J. B. Lippincott Co., Philadelphia.

the policies to be followed in the reformatory activities. A cursory examination of a medical case may determine that the patient is suffering from some organic trouble which causes a great deal of suffering. The hospital diagnosis and treatment may disclose the real cause to be in an entirely different and remote organ. The same principle may hold in crime cases.

These cases fall into the hands of the prison manager. What shall he do with them? He cannot give them more intelligence, to be sure, but he must, by all means, correct them. The psychologist, morale officer, medical director, social service worker, and educator here join hands for a constructive program. They must teach and train them to the capacity of their intelligence to react to the demands of society as normally as possible. This can be done only by a full understanding of their weaknesses and capabilities—observing them in their reactions to their environment in prison and in free life.

7. *Diagnosis by the Psychiatrist.*—Space is also too limited to go into details as to the diagnosis of functional or constitutional neural disorders, psychoses, epilepsy, psychopathic personality — various mental diseases of every possible degree of abnormality commonly met with in a prison population. These cases present a much greater variety of specialization than is found in the study of the feeble-minded classes. A knowledge of the possible resultant behavior of an abnormal individual in a particular environment becomes of greatest necessity when we are planning to send a man into the outside world to live among men. It becomes a question as to whether he can be trusted at large or whether further custody is necessary. To determine upon the possibility of a cure is equally important, and a knotty problem for the growing school of psychiatrists to solve. To prescribe a helpful set of environment adapted to his peculiar needs while such treatment is in process is of imperative importance. Who but a skilled psychiatrist would

have the temerity to undertake such a task? Prison psychoses sometimes develop in repressive penal institutions, which cause the management untold concern. Not understanding the case, the disciplinarian often uses harsh methods of restraint entirely unsuited to the needs of the patient, and society becomes the loser.

8. *Mental Conflicts and Psychoanalysis.*—It is a difficult task to delve into the inner secrets of the subconscious mind of a patient afflicted with neurosis, or mental conflicts, and determine the complexes he is repressing. The patient unconsciously or consciously offers a great deal of resistance to the efforts of the psychoanalyst. Freud has called attention to the censor (or guardian of the demands of organized society) carefully watching over the instinctive urges and preventing them from becoming a part of the conscious mind.

Dr. Healy [1] speaks of the repression of these urges and the escape of constellations as a tremendous struggle, which he terms mental conflicts. In another chapter we have shown, briefly, how these conflicts sometimes result in antisocial behavior. It requires a well-trained psychoanalyst to secure the co-operation of the patient and to assist him into some means of sublimation of his complexes and to teach him to control his thought processes in a normal manner.

Healy makes the point that it is much better to attack the problem early in life, not waiting for the adult development of habits of resistance. He has devoted most of his attention to juvenile cases, and has demonstrated the value of scientific treatment for mental conflicts during the plastic ages of adolescence. But suppose, as often happens, a mental conflict patient is not treated in youth, but finally comes to the prison with a more or less clearly defined neurosis which is the probable cause of his misbehavior? There is only one scientific thing to do—treat him. Who

[1] *Mental Conflicts and Criminal Conduct.*

but a trained psychoanalyst can do this? It is assured that the patient will not improve until he has had the right kind of attention. Yet our prisons are sending these cases right back into the world in blissful ignorance of the cause of their lawlessness. Dr. Healy's cases illustrate homicidal proclivity, irascible temper and choleric violence, extreme wilfulness, destructiveness, disobedience, malicious cruelty, thievery and other forms of misconduct. We are attempting to cure such maladies as these in our prisons by moral suasion and repressive methods, never dreaming that we must find the basic cause if we would produce a remedy.

9. *Character Analysis Necessary.*—How can we determine the probable reaction of a prisoner to the demands of society after his parole? What sort of influence is the reformatory wielding upon his character, and what false standard of ethics is he entertaining which should be set right before he is permitted to go out into the world? These are questions we all are called upon to answer before we can safely release him. The ordinary prison official attempts to determine by intuition or common-sense standards the ethical attitude of his prisoner, and to correct erroneous thinking by implanting in his mind the principles of sound ethics. The method avails to some extent in some cases where there is no mental defect nor deterioration to render correct reasoning impossible. To know why a normal culprit commits crime is to know his conception of right and wrong. Every normal person, and many who are not normal, have a standard of ethics upon which they govern their actions or which they submerge in selfish obsessions. By arriving at a tangible knowledge of the individual standard we can gain, at least, an inkling of the character.

A few progressive criminologists and psychologists have been attempting, in recent years, to evolve practical methods of character analysis which can be applied to the diagnosis

of criminal personality. To date little success has attended their efforts in establishing workable tests and standards of measurement. On account of the complexities and varieties of emotional impulses, degrees of intelligence, influence of habit formation, all of which combine in multitudinous shades of temperamental mechanism, it has been exceedingly difficult to establish satisfactory and comprehensive norms.

Intelligence tests and psychiatric diagnosis do not furnish a complete diagnosis. We may learn that a patient has a certain amount of planfulness and ingenuity, but what assurance do we have that this ingenuity will not be diverted to shrewd criminal pursuits, such as safe-blowing, picking pockets or making bombs? A patient may display a goodly degree of patience and persistency, but these qualities may be subverted to criminal practices and obduracy in crime habits. The same may be true of other intelligence standards, such as "definiteness of purpose, imagination, motor co-ordination, language ability, originality" and various other standards by which we usually judge the intelligence of an individual, but what do we know about the possibility of the subversion of these faculties to ulterior purposes?

The student of conduct must seek to learn in each case the motives which were responsible for the criminal conduct and the ethical standards entertained by the patient if he would send him out of prison prepared to live a good life.

10. *Schedules of Character Rating.*—The following schedules of character rating have been employed by the author for the past ten years. While he does not present them as a criterion or in any sense as authoritative, he does not hesitate to offer his thesis with the purpose of stimulating further study along this line. The character markings were obtained by one person, who was highly respected by the patient and was able to engage him in the most confi-

dential conversation upon personal matters. No intimation was given that a rating of character was being attempted. When the patient had expressed his opinions upon the subject at hand it was possible for the examiner to ask a pointed question or two and to make a mental note of the prisoner's position in the ethical scale which the examiner had committed to memory. It would be unwise for him to make any written notes during the conversation. It was seldom possible to obtain a complete analysis at one sitting, but three or four interviews made it possible to cover the large field comprehended in the schedules.

(A) *Theoretical and Practical Reactions.*—It will be observed that the schedules cover the theoretical evolution of ethics in the mind of the patient as well as his practical application of the same. If, as sometimes happens, there is a discrepancy between the theoretical and the practical, the examiner should determine the cause of such difference. It may be due to an evasion of the truth or to instability of character upon the particular phase of ethics in question, and this discrepancy is noted. The table comprising the schedule can be interpreted by a layman with little knowledge of the methods by which the information was obtained. A stenographer, by consulting the schedule, can write a running diagnosis of the man's professed and actual attitude toward commonly accepted ethics.

(B) *Schedules for Recording Ethical Standards.*—

(1) *Temperance*

SYMBOL

Theoretical:—

1. Regards abstinence from intoxicants and temperance in all things as right and practical.
2. Regards abstinence from intoxicants as practical, but thinks intemperance a subject for jesting.

3. Thinks it right to take an occasional drink, but very wrong to drink excessively.
4. Regards it as necessary sometimes to drink and treat his friends to be sociable, but thinks it wrong to drink to excess.
5. Believes in taking a social glass and justifies himself for getting drunk on holidays, etc., because he does not do it often.
6. Regards intemperance as wrong, but says he drinks to excess (or uses drugs) because he becomes discouraged with past failures.
7. Regards intemperance as wrong, but says he drinks to excess (or uses drugs). He cannot refuse to drink (or use drugs) with his friends and then gives way to excess.
8. Thinks it all right to drink moderately and a matter of indifference that he gets drunk often (or uses drugs).
9. Considers it a natural part of his social life to drink and become intoxicated (or use drugs); sees no reason to change.
10. Thinks he has a right to become drunken (or use drugs) and that no one has a right to interfere with him; resentful to those who do.

Practical:—

I. Uses Intoxicants:
   a. Never
   b. Occasionally
   c. Moderately
   d. Excessively

II. Drunk:
   e. Never
   f. Seldom
   g. Often
   h. Habitually
   i. Periodically
   j. Has led to crime
   k. Has led to abuse

III. Uses Drugs:
   l. No
   m. Quantity
   n. Took cure

(2) *Social Purity*

SYMBOL

Theoretical:—

1. Has high ideal of chastity and respect for manly and womanly virtue for the sake of virtue.
2. Thinks sex impulse should be kept under reasonable control.
3. Regards sex indulgence as something to be generally expected.
4. Regards excessive familiarity and license in this as a subject for jesting and boasting.
5. Regards social evil as inevitable and ineradicable; and so justifies himself in gross indulgence.
6. Thinks it a matter of little or no concern for married man to indulge in immorality.
7. Thought of sex indulgence seems to be chief concern of existence.
8. Would not hesitate to lead a virtuous girl astray; sees no sense of disgrace.
9. Shows no sense of disgrace from living with prostitutes.
10. Thinks he is a "Wise Guy" because he lives off the earnings of prostitutes.

Practical:—

I. Sexual Indulgence:
   - a. Never
   - b. Lives with women, unmarried
   - d. Frequents bawdy houses
   - e. Lives with prostitutes
   - f. Panderer

II. Sexual Perversion:
   - g. None
   - h. Excessive masturbation
   - i. Homosexuality

(3) *Honesty*

SYMBOL

Theoretical:—

1. Regards honesty as essential; realizes value and strength of honesty; sees no good in or justification for dishonesty.

2. Regards honesty as a good policy in general, but thinks there are occasions where questionable or dishonest trickery would be justified.
3. Thinks that dishonesty and stealing might some time be justified on account of poverty or other misfortune.
4. Regards honesty as the right course, but thinks that strict honesty is impracticable in this world, because of so much crookedness in business, etc.
5. Justifies repeated stealing and acts of dishonesty because he thinks people are all more or less dishonest and he has a right to "get his," as others do.
6. Admits stealing is wrong, but thinks it is an easy way to get along without work; would chance punishment rather than work honestly.
7. Justifies stealing as sort of revenge against what he conceives to be the dishonest methods of successful men.
8. Regards stealing as inevitable for himself on account of being incapacitated by vicious habits (drugs, liquor).
9. Regards stealing as a game of chance which he enjoys just as the gambler is obsessed with the game of chance.
10. Justifies stealing, burglary, etc., with little regard for human life because he has been punished by law, and he thinks he is persecuted; spirit of revenge.

Practical:—

Admits guilt of:

a. Stealing
b. Burglary
c. Highway robbery
d. Larceny from the person
e. Embezzlement
f. Forgery

Does not admit guilt of

g. Stealing
h. Burglary
i. Highway robbery
j. Larceny from the person
k. Embezzlement
l. Forgery

Has been convicted of:

m. Stealing

n. Burglary
o. Highway robbery
p. Larceny from the person
q. Embezzlement
r. Forgery

(4) *Self-Control: Combativeness*

SYMBOL

Theoretical:—

1. Believes in being aggressive for the ideas of right; would acknowledge just claims of others; would handle unjust attacks or encroachments only legally.
2. Believes in being aggressive for own interests; likely to be inconsiderate of the rights of others, but would not willingly or maliciously violate the rights of others.
3. Justifies holding a grudge against one who has wronged him; would seek to get even preferably by legal means.
4. Considers it to be a personal honor to fight if wronged by another; thinks this is the proper way to settle disputes.
5. Considers it a personal honor to fight if called some insulting name.
6. Justifies or excuses quick temper which leads him into fights.
7. Justifies fighting on little provocation; inclined to be proud of it; combative bully.
8. Excuses or justifies seeking fight with weapons in spirit of revenge.
9. Would justify underhanded means of getting revenge upon the one who has interfered with his desires; likely to exaggerate imaginary grievances.

Practical:—

I. Has been in fights:
   a. Never
   b. In self-defense
   c. Repeatedly
   d. When drunken
   e. With weapons
   f. Has been convicted of
      (1) Assault and battery
      (2) Manslaughter

(3) Murder in 2nd degree
(4) Murder in 1st degree

(5) *Home Life*

SYMBOL

Theoretical:—

1. Regards home and family life as one of the vital foundations of society; has high sense of responsibility and genuine affection for home and family and thinks attainment of good home as desirable and possible for him.
2. Realizes the value of ideal home and family life; has affection for family and sees value of providing means of enjoyment and conveniences, etc., but thinks he is unable to do this adequately.
3. Shows affection for home and family and responsibility for providing for them but thinks it difficult for his home to be happy on account of contention, strife, disagreements, etc.
4. Regards home as a convenient place to eat and sleep; lacks the higher affection for home and family, accepts responsibility of providing necessities.
5. Accepts responsibility of providing for dependents, but thinks this has no right to interfere with his personal enjoyment or indulgences.
6. Looks upon marriage as a convenient means of sex indulgence; prefers to continue in immoral practices rather than to assume any responsibility of marriage.
7. Has low sense of responsibility about home and family life; thinks his infidelity of small consequence.
8. Looks upon marriage as merely a means of sex indulgence; cares little about sex immorality of self or wife.
9. Justifies living with different women as common law wife; accepts little or no responsibility.
10. Justifies living with prostitutes and accepting their earnings.

Practical:—

I. Expects to have home:
   a. Certainly
   b. Sometime.

c. Probably
d. Unlikely
e. No

II. Has home:
f. Happy
g. Fair
h. Contentious
i. Riotous
j. Immoral

III. Thinks of home with parents with:
k. Joy
l. Veneration
m. Respect
n. Toleration
o. No concern
p. Aversion
q. Disgust
r. Bitterness
s. Revenge

(6) *Mental Interests, Aspirations, Enjoyments*

SYMBOL

Theoretical:—

1. Has impelling interest in making life a success for the good it will accomplish as well as for self; expects to be successful; finds much in life to enjoy.
2. Regard for family and friends challenges the best thought and effort; hopeful for success; interested in wholesome amusements.
3. Interested in worthy work, but thought is largely for personal superiority and selfish success. Interested in recreations.
4. Interested in work because he has to work and chooses kind of work that is least irksome; recreations, lazy, over indulgent, questionable, hurtful, evil, good.
5. Very little continued interest in work of any kind; no particular object to be attained.
6. Evil interests predominating; sensuality, dissipation; interest in worthy work quite secondary.

7. Pronounced mental conflicts and reaction toward successful men; gross indulgences occupy thought.
8. Predominant interest in indulgence of vicious habits, drunkenness, drugs, sex-immorality, gambling.
9. Interests largely in stealing, etc., and in eluding the authorities.
10. Interests almost or quite entirely in evil practices, gross indulgences, etc., no worthy motive apparent.

Practical:—

I. Amusements:
   a. Good
   b. Indifferent
   c. Questionable
   d. Hurtful
   e. Evil

II. Engages in:
   f. Games, Music, Drama
   g. Recreation
   h. Reading
   i. Study
   j. Effort for efficiency

(7) *Associates*

SYMBOL

Theoretical:—

1. Realizes the value of choosing environment and associates which inspire to useful citizenship and the development of the better faculties of mental, moral and physical being.
2. Sees value in associating with people who inspire to useful citizenship, but feels that it does not offer enough enjoyment.
3. Thinks there is value in associating with good people, but thinks it is impractical for him because of poverty, past life, circumstances under which he was raised.
4. Thinks that the saloon, pool halls, etc., afford desirable associations because he enjoys the relaxation and lack of restraint; admits this association has its dangers.
5. Thinks that pool halls, saloons, gambling games, etc., afford desirable associations for him because he has grown

to like his friends found there, shows little or no desire to change.

6. Considers the association with righteous people undesirable and effeminate because they do not indulge in drinking, immorality, etc.
7. Considers the association of immoral and unrighteous people natural for him, and desirable because of the indulgence it offers.
8. Thinks no one has a right to question his association with the immoral and unrighteous.
9. Regards association with the criminal and immoral class desirable and profitable for him because he makes crime and immorality his business.
10. Resentful and revengeful toward anyone who would question him or interfere with him for associating with the criminal and immoral.

Practical:—

I. Frequents:
   a. Saloons
   b. Bawdy houses
   c. Pool halls
   d. Gambling games

II. Associates with:
   e. Drunkards
   f. Drug addicts
   g. Prostitutes
   h. Thieves, etc.
   i. Loafers
   j. Floaters
   k. Gamblers

(8) *Work and Finances*

SYMBOL /

Theoretical:—

1. Thinks it a moral necessity to work regularly; regards it as best and possible for him to have steady work year round at trade or profession; sees joy in doing his part in the world work.
2. Regards work as necessary; sees value of regular employment, skilled labor, etc., and thinks this is possible for him.

3. Regards work as necessary; satisfied with seasonal employment, little or no thought of advancement.
4. Regards work as necessary; satisfied with unsteady and unskilled labor; no thought of advancement or improvement.
5. Thinks he is not duty bound to work regularly; thinks it all right to be unemployed unless he can get work at his particular line.
6. Admits that he ought to work steadily, but says that associates who are unemployed influence him toward unemployment and shiftlessness.
7. Excuses habitual shiftlessness, loafing, etc., on pretext of ill health, some defect, scarcity of work, etc., which seems to be largely imaginary or untrue.
8. Excuses unemployment on account of drug or liquor habit.
9. Thinks he could not be satisfied to work regularly because he has so long made a living otherwise.
10. Regards people who work regularly as "hoosiers," "easy marks," etc.

Practical:—

I. Saves:
   a. None
   b. Seldom
   c. Spasmodically
   d. Regularly

II. Works:
   e. Regularly year round
   f. Seasonal employment
   g. Unemployed each year
   h. Odd jobs
   i. Transient
   j. Habitually unemployed

(9) *Attitude Toward Government*

SYMBOL

Theoretical:—

1. Regards government as means of obtaining higher expression of life; regards law and order as essential; expects to obey the law; respects officers of law as such.

2. Regards law and order quite essential for society, but thinks that he has a right to be careless about obedience to laws which he regards as non-essential for himself.
3. Regards government as something he must obey for fear of punishment rather than on moral grounds.
4. Regards law and order as necessary theoretically but fails to see the destroying elements of the disobedience to law; excuses what he calls minor offenses.
5. Regards laws as desirable, but thinks that honest and just government is impracticable now and so justifies and excuses unlawful conduct.
6. Shows very little appreciation of the benefits of any necessity for law; acknowledges no particular moral obligations to the law.
7. Shows marked indifference toward the law, cares little about law breaking.
8. Shows disregard for law; hostile to authorities as such; proud that he has eluded the law.
9. Takes the attitude that law and government are means used by grafters and wants to beat them at the game.
10. Thinks that he is being persecuted when punished for infractions of the law; shows bitterness and spirit of revenge toward authorities.

(10) *His Own Delinquency*

SYMBOL D

Theoretical:—

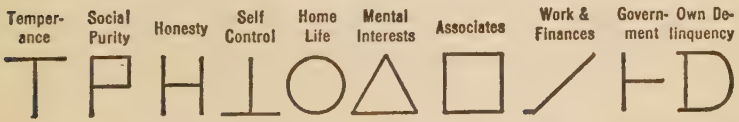
0. Positively denies guilt.
1. Truly repentant; glad he was apprehended before going any further on the wrong course; wants to atone for his wrong.
2. Sorry for his delinquency more because he is disgraced than because of moral offense.
3. Acknowledges guilt, thinks he will never be guilty again; not so much from moral consideration as from the fact that he does not wish to be punished again.
4. Acknowledges his guilt; is willing to suffer the consequences; not particularly sorry or repentant.
5. Acknowledges his offense, but excuses his guilt, placing blame upon other people or circumstances.

6. Denies any offense and gives unreasonable explanation of circumstances which indicate guilt.
7. Acknowledges guilt; seems almost hopelessly resigned to life of delinquency on account of alcoholism, narcotics.
8. Denies guilt though this is patent; charges that he was "framed on."
9. Denies guilt (though guilt is patent) and is resentful toward those who convicted him.
10. Marked bitterness and spirit of revenge toward authorities and society.

C. *Not Capable of Statistical Evaluation.*—No effort is made to obtain a statistical evaluation of the material gained in this rating. It is a subjective estimate and, as such, does not merit an attempt to obtain scientific facts therefrom. Its chief value is that it enables the prison authorities to gain a more nearly standardized judgment of the individual than is possible by purely haphazard methods. It is of considerable advantage to be able to compare a patient's ethical attitude and reactions to a uniform set of questions to some set of standards, even if the answers obtained cannot be evaluated in the same objective manner possible with mental tests.

D. *Method of Recording Data.*—The results of an examination are finally recorded in a concise form by grouping of the various symbols as follows:

(1) *Assembled Blank Symbols for Record Card*



This group of symbols may be stamped on a case record card and the index of analysis written in with a pen, as in the following record, which gives the result of an interview with a prisoner.

(2) *Symbols with Analysis Inserted*

We present below a record of the ethical attitudes of a young man who was sentenced to prison for murder. He was subsequently found to be innocent of the crime and pardoned.

(3) *Preliminary History of the Case.*—Symbol record describes the mental attitude of a young man, aged 29, who was left an orphan at the age of 8, and was reared at the home of his grandmother, in a small country town. His infancy and childhood seem to have been uneventful. At the age of 13 he left school because he could not keep up with his classes. He was at that time exceedingly dull in his studies. He spent most of his leisure time wandering through the woods, associated with a gang of young fellows of his own kind, and was soon arrested with them for destruction of property; was sent to a juvenile reformatory and placed in the school of that institution. He finally completed his grades, but learned no trade. After his release on parole he found employment as brakeman on a freight train, at which occupation he worked for two years, being discharged when the railroad was compelled to retrench. He was seeking employment in his home town when an atrocious murder was committed, and, largely because of his juvenile record and other suspicious circumstances, he was convicted of murder, second degree, on purely circumstantial evidence, and was sentenced to the penitentiary, with an indeterminate sentence of ten to twenty years.

While in the penitentiary he developed a passion for writing, and, although possessing but mediocre ability, was

successful in selling a few unimportant articles to magazines. On account of the superficial and erroneous evidence against him and because of good prison conduct he was pardoned after seven years. He was co-operative and obedient as a prisoner, and struggled persistently while in prison to prepare for a successful career after parole.

(4) *Transcript of Symbol Record.*—The analysis of this case as transcribed from the symbol record is as follows:

Patient regards it necessary sometimes to take a drink and treat his friends to be sociable, but thinks it wrong to drink to excess. He uses intoxicants occasionally but seldom gets drunk. He regards sex indulgence as something to be generally expected and frequents bawdy houses. He regards honesty as the right course but thinks that strict honesty is impracticable in this world, because of so much crookedness in business, etc. He has never been convicted of any crime against property (except his juvenile offence) and denies that he ever was guilty of other crime. (He seems to have gotten much of his impression in regard to property rights through his prison associations. He greatly sympathizes with his fellows who are in prison and champions their cause.) He considers it a personal honor to fight if called an insulting name, and (when younger) engaged in fights repeatedly. (Becomes angry easily and has a tendency to hold a grudge a long time.) He regards home and family life as one of the vital foundations of society; professes to have a high sense of responsibility and genuine affection for home and family, and thinks attainment of good home as desirable and possible for him. He expects to have a home some time (referring to married life). Has a fair home (referring to grandmother's home). Thinks of home with respect. Very little continued interest in work of any kind; no particular object to be attained. He indulges in ques-

tionable amusements, and reads books during leisure hours. He thinks there is value in associating with people who inspire to useful citizenship, but considers it is impractical for him because of poverty, past life, and circumstances under which he was raised. He frequents bawdy houses and pool halls. He regards work as necessary; sees value of regular employment, skilled labor, etc., and thinks this is possible for him. He saves nothing and is transient in his habits. He regards law and order as quite essential for society, but thinks that he has a right to be careless about obedience to laws which he regards as non-essential for himself (he denies any connection with crime of which he was convicted, and subsequent circumstances seem to bear out this statement).

(5) *Inferences from the Transcript.*—The many contradictions in his ethical concepts furnish splendid guidance for his instruction in ethics, as the analysis points out various places where guidance can be applied. The follow-up on this case has only fair promise, because he seems to be able to understand the philosophy of a good life, and receives advice with great interest, but practices it indifferently. The important question is whether he will have sufficient moral stability to follow the course of his best judgment. For instance, the fact that he values a home and expects to have one of his own, yet saves nothing, is transient in habits, goes to bawdy houses, gets drunk occasionally, are all good points to emphasize in his instruction. There are some evidences of a neurosis acquired through many years of repression and forced association with criminals.

It has been objected that there is a great probability of deception in securing data from the patient, who is likely to be on his guard to conceal his real position in the schedules, but repeated tests have produced similar results, and there has been a surprising frankness exhibited by the average patient in the interview—a spirit of co-operation. The

result tends to grade him lower than was anticipated. Also contradictions between the theoretical attitude and the practical experience of the patient furnish a basis upon which to work.

11. *Analysis Used by Dr. Edith R. Spaulding in the Psychopathic Clinic at Bedford Hills.* — A comprehensive and excellent method of recording traits of personality is described by Dr. Edith R. Spaulding in "An Experimental Study of Psychopathic Delinquent Women." This method was employed in her study of the psychopathic patients at Bedford Hills. The record charts were graded by five different workers who were in more or less constant contact with the patient, and they cover the points given below in the following gradation: Trait present in marked degree; trait present in moderate degree; trait present in but a negligible degree; absence of trait somewhat noticeable; absence of trait very conspicuous; decision doubtful; and no decision. One point of excellence is that the grading is judged upon contact and observation of the patient in daily life.

I. Intelligence as Indicated in

1. Aesthetic appreciation
2. Definiteness of purpose
3. Ethical judgment
4. Imagination
5. Judgment
6. Language ability
7. Learning ability
8. Memory
9. Mental ability
10. Motor co-ordination
11. Originality
12. Planfulness
13. Suggestibility
14. Reasoning ability

II. Work Record

1. Absent-minded
2. Accurate
3. Automatic
4. Clumsy
5. Deliberate
6. Distractible
7. Having endurance
8. Learning by experience
9. Persistent
10. Having concentration
11. Responding to stimulation
12. Showing effort
13. Skillful
14. Needing stimulation

III. Traits

1. Adaptable
2. Ambitious
3. Cleanly
4. Confidential
5. Consistent
6. Dishonest (stealing)
7. Easily offended
8. Egocentric
9. Exhibitionistic
10. Fault-finding
11. Generous
12. Hypochondriacal
13. Impulsive
14. Introspective
15. Jealous
16. Kindhearted
17. Melodramatic
18. Neat
19. Obscene
20. Opinionated
21. Optimistic
22. Profane
23. Resourceful
24. Seclusive
25. Having sense of humor
26. Sensitive
27. Self-justifying
28. Self-pitying
29. Self-sufficient
30. Taking responsibility
31. Tale bearing
32. Unreliable
33. Untruthful
34. Vain
35. Overactive
36. Underactive
37. Irregularity
38. Timid
39. Daring
40. Taciturn
41. Loquacious
42. Social
43. Unsocial
44. Independent
45. Dependent

IV. Type

1. Childish
2. Adolescent
3. Adult
4. Follower
5. Leader

V. Attitude

1. Changeable
2. Conscientious
3. Co-operative
4. Easily discouraged
5. Responsive
6. Self-assertive
7. Self-depreciative
8. Showing interest in:
   a. Emotional things
   b. Intellectual things
   c. Mechanical things
9. Suspicious

VI. Manner

1. Affected
2. Aggressive
3. Apathetic
4. Assaultive
5. Boastful
6. Bodily attitude
   a. Awkward
   b. Graceful
   c. Dignified
   d. Showing abandon
7. Combative
8. Defiant
9. Demonstrative
10. Enthusiastic
11. Flippant
12. Forceful
13. Frank
14. Having mannerisms
15. Ingratiating
16. Irritable
17. Loud voiced
18. Patient
19. Petulant
20. Pleasant
21. Having poise
22. Sarcastic
23. Self-conscious
24. Self-controlled
25. Serious
26. Soft-voiced
27. Sullen
28. Violent

VII. Emotional Tone

1. Cheerful
2. Cries often
3. Depressed
4. Excitable
5. Laughs often
6. Quick tempered
7. Remorseful
8. Repressed

VIII. Stream of Tale

1. Circumstantial
2. Incessant
3. Making repetitions
4. Moderate
5. Raconteur type
6. Rapid
7. Relevant
8. Reticent
9. Slow
10. Tendency to unburden

IX. Special Abilities

X. Special Causes of Emotional Reactions

XI. Special Propensities Not Already Noted

XII. Habits

a. Of activity *b.* Of thought *c.* Of sex

It would probably be necessary to modify this category to some extent to meet the requirements of male prisoners, but it presents a most comprehensive picture of the personality of psychopathic women.

12. *The Classification of Allport and Allport.*—Allport and Allport, in their classification of personality traits, as described in the Journal of Abnormal and Social Psychology,[1] portray personality as the "adjustment of the individual to his social environment," and they present a simple scheme of personality used in the psychological laboratory of Harvard, as follows:

"I. Intelligence

II. Temperament
1. Emotional Breadth
2. Emotional Strength

III. Self-Expression (Strength)
3. Extroversion—Introversion
4. Ascendence—Submission
5. Expansion—Reclusion
6. Compensation
7. Insight of Self-Evaluation

IV. Sociality
8. Social Participation
9. Self-seeking and Aggressive Self-seeking
10. Susceptibility to Social Stimuli"

13. *Dr. June Downey's Will-Temperament Tests.*—The most noteworthy system of personality tests is that of Dr. June Downey, in her book "The Will-Temperament and Its Testing." Profile patterns or graphs of individuals vividly picturing in three phases the temperament measured in grades of ten are recorded, depicting the following twelve traits:

[1] Volume 16, 1921.

"1. Speed and Fluidity of Reaction
   a. Speed of Motion
   b. Freedom from Load
   c. Flexibility
   d. Speed of Decision
2. Forcefulness and Decisiveness of Reaction
   e. Motor Impulsion
   f. Reaction to Contradiction
   g. Resistence to Opposition
   h. Finality of Judgment
3. Carefulness and Persistence
   i. Motor Inhibition
   j. Interest in Detail
   k. Coordination of Impulse
   l. Volitional Perseveration." [1]

These traits are determined by such devices as having the examiner grade himself as to character by checking a group of traits of opposite meaning, such as "ambitious—unambitious," noting the time consumed; writing his name naturally, slowly as possible, as rapidly as possible, and while blindfolded, with pen-point obstructed by the examiner; and many other tests, in some of which the time element is regarded and in others the mental reactions. Lack of space forbids the further description of these tests, an adequate conception and interpretation of which can be secured only by careful study of the book and manual prepared by Dr. Downey and the practice of them in the laboratory.

Dr. Downey says: "Character may be thought of as the organization of native and acquired traits effected through inner subjective factors and outer objective ones. Character, in this sense, will be influenced by intelligence or by power to reflect upon and discover the significance of experiences and by the capacity to form ideals; it will also be deter-

[1] *Will-Temperament and Its Testing*, pp. 60-63. Copyright, 1923, by World Book Company, Yonkers-on-Hudson, N. Y.

mined by sensitiveness to social control; and it will be modified by external pressure and by the acquisition of specific habits through pressure of the environment."

"Character is not, then, a sum-total of native tendencies; it is a product built upon these tendencies; it is the direction in which native tendencies are turned. It follows that character is not subject to measurement through tests in precisely the same way as native tendencies are, although one may take a cross-section of it at any particular moment."

14. *Dr. Howard W. Potter's Study of Personality.* — Dr. Howard W. Potter, in "Mental Hygiene," July, 1922, presents a guide in the study of personality, dissecting it into the component parts under the following captions:

"A—Intellectual Characteristics.
"B—Sense of Responsibility.
"C—Industrial Efficiency.
"D—Output of Nervous and Muscular Energy.
"E—Habitual Reactions to Inferiority.
"F—Sociability.
"G—Conduct and Behavior.
"H—Mood.
"I—Reactions Related to Mood.
"J—Special Aptitudes and Interests.
"K—Unique and Pathological Traits."

Each of these divisions is subject to appropriate subdivisions, the whole analysis furnishing a comprehensive and composite picture of the behavior reactions of an individual.

We have presented a sufficient array of tentative efforts to demonstrate the tremendous difficulties encountered in the diagnosis of personality, and, by doing so, we hope to have stimulated a further study of the thesis.

CHAPTER XIV

THE POLICE AS A DETERRENT AGENCY

1. *The First Agency of Correction.* — The time-worn platitude "Catching is before hanging" can be appropriately paraphrased: "Catching is before correcting." If a government has a scheme for the reformation of criminals it is impossible to apply it to the offender until he has been caught. As long as he is able, as he would express it, "to put one over" on the detective, policeman, or the court, he takes new license with every successful escapade and plunges deeper into crime. The police agencies and the criminal court are, therefore, of paramount importance in any reformatory system. While the criminal is at liberty, plying his trade and deceiving the public, just so long will it be impossible to operate any kind of reformatory propaganda in his behalf. As soon as he has been arrested and is behind the bars awaiting trial, it is possible to begin measures for his correction. Caesar Beccaria says that "the essence of the penal system should be placed within the limits of a legitimate defence, and that one of the checks to crime should not be the cruelty of punishment but in the certainty of its application." Facilities for the arrest and conviction of the criminal are, therefore, the strong arm of power in law enforcement. Every available means should be afforded the police department to enable it to apprehend every criminal early in his career. The police is the agency organized by society for the protection of life and property, and the criminal must be shown that he cannot commit crime with impunity. Whatever sentiment may prevail for the humane

treatment of the criminal after he has been convicted, he should know while he is at large that unremitting effort is being put forth for his arrest by shrewd and competent detectives. For this reason the police power is the greatest deterrent force a country can have.

2. *Various Protective Officers.*—There are various divisions of protective agencies, performing police duties according to the unit of government by which they are employed. Federal officers function in the enforcement of postal laws, prohibition, customs, revenue and interstate relations. State police assist in the regulation of traffic, enforcing prohibition and constitutional provisions. Urban police are active in public safety and the enforcement of all law, whether it be national, state or municipal. Besides these agencies are such officers as city marshals, constables, sheriffs, deputies, game wardens, etc., the chief duty of whom is the enforcement of the law.

3. *Organization of Municipal Police.*—There is no uniform police system for the various cities in the United States. Each community organizes its department according to its own needs. The International Association of Chiefs of Police, the membership of which includes heads of the police of 225 cities in the United States and Canada, is now exercising a great influence toward the unification of the police power of this continent. The police of the larger cities and some smaller ones are governed by boards of police commissioners or directors of public safety, in some of which they are appointed by governors of the states in which the cities are located. Some are appointed by the mayors of the cities, and in some cases the mayors are ex-officio members of the board.

4. *Police of New York City.* — New York City has a single commissioner of police, who is not a member of the uniformed organization. He directs through his staff of deputies 11,179 policemen, special officers and detectives.

There is a school of instruction for recruits and examinations are held for appointments and promotions. The men are assured employment during faithful performance of duty and are retired on pension when disabled or after a certain length of service. Their widows and orphans are likewise provided for, this being regarded as an incentive to the proper discharge of duty. The force has its detective bureau of plain clothes men, to which the most skilled men are detailed for duty. It also has a traffic bureau consisting of 2,061 men, many of whom are mounted upon selected horses and direct thousands of moving vehicles; protecting the millions of pedestrians who throng the streets. The department also includes a squad of men mounted on motorcycles to enforce the traffic regulations. Other cities are organized similarly, but none of them maintain forces numerically as strong as that of New York.

5. *The Platoon System.*—A city is divided into two, three, four and sometimes many more police districts, according to its area and population, each district having its own captain, lieutenant, sergeants and privates. The force is operated on a semi-military plan, for the purpose of facilitating the movement of the men, so that all orders of the chief can be put into effect without delay. The hours of service are divided by organizing the force into two, three, four, or five platoons, thus giving adequate protection and allowing the officers sufficient time for rest and recreation. For instance, out of thirty important cities studied in this connection, nineteen employ three platoons, five four platoons, and one has six. An example of the division of time in one city is as follows: One platoon goes on duty at 8 o'clock in the morning, two go on at 5 o'clock in the evening, and one at 10 o'clock at night. The men work ten hours each day. They serve three-fifths of their time at night and two-fifths at day. This system provides a doubly strong force of men on duty in the early hours of the night.

Most of the cities use three straight shifts of eight hours each. The officer who makes an arrest at night must take part of his personal time, which he commonly needs for rest, to appear in court against offenders the next morning.

6. *Relative Strength of Police Protection.*—The relative strength of the police of different cities varies greatly. New York City has a police area of 316 square miles, a population of 5,927,617, and a total of 11,179, or one policeman to 530 persons and 35 officers per square mile, while New Orleans, with a policed area of 196 miles, has a population of nearly 400,000, with a total force of 654, or one for every 612 people—less than four police employees per square mile. Los Angeles (including Los Angeles County), growing so phenomenally, with an extension of territory to 400 square miles, has a population of more than 900,000 and a total of 2,367 officers, or one to 380 people, and 5.75 officers to the square mile. Selecting twenty-nine cities in various parts of the United States and Canada, we present the following table showing a comparison of police protection and arrests in these cities in 1923, as reported to us by the chiefs of police:

7. *Efficiency of Police in Twenty-nine Cities.*—

Cities	Sq. Miles Territory	Pop. Per Sq. Mile	Pol. Per Sq. Mile	Arrests Per Sq. Mile	Arrests 1000 Inhab.	Arrests Per Officer
Boston	49.	16329	40	1566	96	40
Buffalo	42.	13381	25	713	53	29
Cincinnati	72.	5764	11	534	94	51
Cleveland	69.	13913	18	694	49	38
Davenport	16.	3562	4	236	67	59
Dayton	17.	8915	12	498	56	43
Denver	59.	4576	6	293	64	49
Des Moines	54.	2777	3	303	108	163
Indianapolis	49.	6974	11	892	117	75
Kansas City, Mo.	60.	6201	10	750	121	70
Los Angeles	400.	2250	4	259	115	53
Louisville	39.	6566	10	439	67	44
Milwaukee	27.	19852	25	816	41	32
Minneapolis	52.	8961	9	351	44	42

Cities	Sq. Miles Territory	Pop. Per Sq. Mile	Pol. Per Sq. Mile	Arrests Per Sq. Mile	Arrests 1000 Inhab.	Arrests Per Officer
Montreal	50.	16726	21	314	18	15
New Orleans ...	196.	2041	4	30	15	11
New York	316.	15594	35	953	51	27
Philadelphia	129.5	15384	33	92	58	28
Pittsburgh	45.6	13215	23	1057	79	45
Portland, Me. ..	21.5	3272	6	123	36	21
Providence	18.3	13199	28	665	51	24
Roanoke	9.5	6000	7	1128	178	153
Salt Lake City..	52.	2461	3	135	62	54
San Francisco...	46.7	13829	23	912	63	35
Savannah	8.8	9777	12	954	94	76
Springfield, Mass.	33.	4394	8	207	47	28
Springfield, Ohio.	11.5	5834	4	366	60	95
St. Louis	61.	12656	29	1096	86	39
Toledo	48.	5833	6	319	56	48
AVERAGE	70.83	8974	15	541.2	70.57	51.3

It will be noted that Des Moines and Salt Lake City employ only three police to the square mile, and Davenport, Los Angeles, New Orleans, and Springfield, Ohio, have but four to the square mile, while Boston and New York, being much more congested, employ respectively forty and thirty-five per square mile. Boston, Pittsburgh and New York, also on account of congestion, show a large number of arrests per square mile. Milwaukee shows a congested population, but reports a lower per capita record of arrests, while Roanoke, differing in many respects from the larger cities, has less than the average of congestion, but shows a high average of per capita arrests. St. Louis has a police area of about sixty-one square miles, a population of 772,-897, and a total force of 1,792 men, or one policeman to 431 persons. We cannot assume, however, that these facts fully portray the protection afforded by the various organizations. Efficiency varies according to personnel, training, equipment, standards, obstacles and prevalence of crime in the different communities.

8. *Adequate Protection a Terror to Criminals.*—The professional criminal is always shrewd enough to calculate

upon the large crowds in times of conventions, fairs, and carnivals; also to take into account poor police protection, poorly lighted streets, and other conditions in his favor when choosing a profitable and safe field of operation. Whenever a municipality fails to provide adequate protection there is likely to follow a wave of crime.

9. *Ingenious Devices and Scientific Methods.*—The professional criminal of to-day is better equipped and more clever than ever before. He is more scientific in methods of committing crime. In fact, he is compelled to be more shrewd, not only because he runs an infinitely greater risk of being caught but because modern methods of preventing crime are more efficient. Detective experts match his cunning with ingenious methods to expose his crime and to bring him to justice. There are to-day many scientific devices and methods, such as micro-analysis, etc., unknown a few years ago, which can be utilized in the solution of detective problems. A single hair under the microscope may send a man to the gallows; a single drop of blood in the hands of the analytical chemist may mean life imprisonment or electrocution. There is no poison the traces of which cannot be detected, while the microscope has made counterfeiting and forgery easy of detection. Modern burglar alarms and police signals make it very difficult for bank robbers to ply their nefarious trade. The science of numbers has been applied to the identification and recovery of stolen property, making it difficult for the thief to dispose of his booty.

10. *Modern Aids to Detection and Arrest.*—The automobile, the aeroplane, the telegraph, telephone and radio unite their wondrous facilities, reducing the chances of the criminal to evade the terrors of the law. Telephotography and the more recently discovered telepix service are chief among recent inventions for police efficiency. A true likeness of a criminal can be transmitted from Honolulu to New York,

a distance of 5,060 miles, by air and wire in the brief space of twenty minutes. Wherever the criminal may flee he is in danger of capture, if there is proper co-ordination of the police departments of the various cities and lands. Canada and Mexico are no longer overrun by defaulting bank national extradition treaties almost cover the globe.

High-power motors, so often used in the commission of crime, have also become most valuable accessories of the cashiers of the United States, for the reason that inter-police to detect and arrest criminals. The police "flyer," carrying groups of policemen to the scene of the crime, while the criminal is still in the vicinity, is a great preventive. Philadelphia has recently installed twenty police "flyers," each equipped with radio receiving sets, to which the location and details of a crime are broadcasted from the central station. Some cities employ armored cars, machine guns and other facilities of like nature, so dreaded by bank robbers and holdups. New York employs aeroplanes and high powered automobiles to locate and arrest her outlaws. Swift and certain intimidation is of paramount importance and devolves largely upon the integrity and efficiency of the police, if the criminal is to be deterred from his depredations. To this end, no expense nor sacrifice seems too great to render our communities safe, and to make possible the custody and correction of criminal characters who render them unsafe.

11. *Improvements in Personnel of the Police.*—Through various methods of retirement pensions, insurance and more commensurate salaries, there has been a marked improvement in the personnel of our police in recent years. Some cities maintain an educational and character standard and select their officers by civil service examination. Others are content for their police departments to be used as a political football. High grade men should be chosen to fill this high and responsible position. They should be clean, intel-

ligent, and fairly well educated. A Biblical writer said that "The law is a schoolmaster" which means that the law is the standard of morals by which we gauge our civilization. The policeman is the teacher and exemplar of that standard. He should compel respect for the law, not only by his authority, but also by his personal demeanor, courtesy and precept. In his hands is one of the greatest means of usefulness, as well as one of the greatest powers of destructiveness, entrusted to any citizen. We can imagine how poorly this prerogative might be administered if a grafter, a libertine, or an inebriate should be employed to fill this responsible position. Jacob Riis once told of a man who was examined for the office of policeman in New York when Roosevelt was police commissioner. He was requested to name five of the original colonies of America. He answered: "England, Ireland, Wales, Belfast, and Cork." Another wrote that "Abraham Lincoln was assassinated by Ballington Booth."

The obvious question is, how could such a poorly informed person become sufficiently versed in the intricacies of the law to know when to make an arrest. Japan will not admit men to the police force until they have been graduated from a central, accredited school. A higher educational standard in our country would greatly increase the efficiency of the police; however, the standard of intelligence seems to be somewhat higher than it was a few years ago. Ideally, the police officer is a social worker, with a high conception of the content and purpose of the law and with humane feeling in its administration, inasmuch as he is the personification of the terrors of the law.

12. *Methods of Identification.*—One of the most noteworthy improvements in police methods in modern times is the general use of methods of identification. There are two systems in common use, namely, the Bertillon system of measurements and the Henry method of finger prints.

A. *The Bertillon System.*—The Bertillon System takes eleven measurements, height, stretch, trunk, head front, head side, cheek width, ear length, left foot, left frontal arm, middle finger, and the little finger. The different parts of the body are then described minutely; for instance, the eye is grouped in seven different classes, with three letters to each class, according to shade and mixture of colors in the iris, the shape and concentration of the iris. Peculiar scars, marks and irregularities are carefully noted. The descriptive photographs accompanying the measurements consist of two views of the subject: front and profile. The Bertillon System is not regarded as accurate, nor as perfect as is desired, for the following reasons:

(1) For any age under twenty-one years, there is certain to be a number of subsequent changes in measurement on account of growth.

(2) Instruments of measurement become inaccurate by a slight bend.

(3) Different persons obtain different measurements.

(4) Discrepancies of as much as two or three milimeters will sometimes remove the classification several cases of record cards away from its correct location. The minutest mistake in measurement may thus result in the entire failure of identification. For this reason it is gradually being replaced by the finger print system.

B. *Finger Print System.*—The "Henry Method" of finger prints is the simplest and most accurate system of identification that has ever been discovered. Its methods are more easily acquired than the Bertillon system, and identification by this means has often been effective when the Bertillon and photographic methods have broken down. There is no difficulty in indexing and classifying finger prints for rapid reference and comparison. The device has been in use in a crude way among the merchants in the central part of China for centuries. The thumb print, af-

fixed to a receipt or note, is more binding than a signature because of the impossibility of forgery. The finger print system was introduced into England in the latter part of the 19th century by the officers of Scotland Yard. They learned of it through its application in the English Army in India, where more than eighty years ago the finger print records of native troops were taken as a means of identification to be used in case of another mutiny.

(1) *Interpretation of Finger Prints.*—It is far more valuable to the police because it not only serves to identify the criminal, but also to detect the person who commits the crime. The pattern upon the surface of the skin and on the palms of the hands is formed by the arrangement of what is known as the papillary ridges. These ridges are arranged in designs known as:

1. Arches. 2. Loops. 3. Whorls. 4. Composites. There are many varieties of each design. The pattern is readily recorded by coating the tips of the fingers with a fine layer of printers' ink and pressing them upon paper. The most important point in the application of the finger print to the identification of the individual is that the details of this pattern is not destroyed by the many developments and changes of muscular tissue throughout life. After thirty or forty years the papillary ridges have changed so slightly that an unmistakable identification can be made. A finger print expert took the prints of a child in the year 1877 and in 1890 he took them again, with the result that there were forty-two points of resemblance and only one point of difference. Alterations of all other known measurements of the human body will occur with the passing of time, but finger prints remain the same.

(2) *Accuracy of Finger Print Identification.*—It is possible by means of the relation of the arches, loops, whorls, etc., of finger prints, to find thousands of points of comparison in which to establish the identity of an individual.

Sir Francis Galton, one of the early students of this system, found that out of 1000 thumb prints of different persons, he could classify them into 100 groups, each of which bore a more or less close resemblance. By a more intensive study of the minutia of the patterns and a mathematical calculation of the chances that the print of a single finger should correspond to the print of another finger, he concluded that it is as one to 64,000,000. Now if the comparisons were extended to two fingers, the improbability of agreement in all details would be equivalent to the square of 64,000,000. If we should take into account all the differences and probabilities of agreement, of all the fingers, the figure would be altogether beyond the range of human imagination. We have, therefore, in this system, the only means of proving the identity of an individual beyond all question.

(3) *Application of the Finger Print System.*—We often read accounts of thrilling discoveries of identity by means of finger prints, left at the scene of the crime by the criminal. A safe is looted and finger prints detected by means of the microscope, resulting in the arrest of a whole gang of robbers. The tell-tale imprint of the fingers on a pane of glass, or goblet, or a burglar's tool, has often led to the identification of the guilty party. Some one has told of the capture of an English pickpocket who was plying his trade in Chicago. His prints were forwarded to Scotland Yard and the return mail brought the complete history of many crimes in which he had been involved in that country. This is a common practice with the police everywhere, today. It is exceedingly difficult for an escaped prisoner to hide his identity, if he continues in crime, because his first arrest discloses the fact that he is wanted badly by his warden in some distant state.

The finger print system is used in the army and navy. As soon as a man enlists his finger prints are sent to

Washington. These records have often been the means of identifying and capturing deserters. They are of great service also in identifying the dead and wounded in battle. The use of finger prints is destined to become general. It could be used by mercantile houses, banks and other places of business to furnish a sure means of identification of absconders, or to identify the victims of catastrophies. It would be useful in checking up illegal immigrants. Ships should take the prints of passengers, so as to be able to identify the dead in cases of accident and to prevent criminals from migrating undiscovered from one country to another. The notorious case of a pretended heir to a large estate, who claimed to be the long lost son of a mother who would not own him, could have been settled in fifteen minutes if a certain bank had used this method for the identification of its employees.

There are many cases of amnesia, or so called double personality, who are never restored to their friends, causing much anxiety. There have been many cases of this kind which could have been cleared up in a short time, if the general population were required to be finger printed.

It is not likely to be employed as generally as this, however, in the near future.

One of the greatest needs of today is a national clearing house of criminal identification to which the police of every community would send the finger prints of all the criminals arrested and convicted, and upon which they could draw for information in regard to suspicious characters.

The migration of criminals from one city to another could be checked to a great extent, if a system similar to the Meldewesen were put into general use, such as is employed in Berlin and some other European cities. It requires every person to report to the police when he arrives in the city and give information about himself, his residence, his business, etc., to the satisfaction of the police. Our American

ideals and the promiscuity of our population seem to bar this method of detective service. The police of many of our cities frequently arrest suspicious characters, on the charge of vagrancy or on suspicion, and submit them to rigid tests on somewhat the same principle. In many cases of this kind dangerous criminals are identified by means of the finger print system.

12. *Passing of the Third Degree.*—The "third degree," sometimes called "the sweat box," which is used to compel the criminal to confess his crime and to implicate his accomplices, is still employed by some departments of police. This method is rapidly gaining disfavor with the public. For many centuries the idea of torture has been associated, in one way or another, with the treatment of the criminal. The application of the "third degree," remotely partakes of the nature of the inhuman and heathenish "ordeals" of semi-barbarous times when the accused, with hands and feet tied together, was thrown into the river to learn whether he would sink or float; or was compelled to thrust his hands into boiling water, to determine whether he would be scalded; or to pick up a red hot iron to see whether he would be scarred, which was regarded as a mystic test of his guilt or innocence. Through many years, in every land on the globe, accomplices have been named and crimes confessed, under the severity of threats and tortures administered by inhumane police officials. Even now, in some parts of the United States, the custom prevails in varying degrees. However, it is now tabooed by all efficient departments. The dazzling light, the cold water hose, the secret blow, beating or kicking, suddenly subjecting the victim to some form of shock, or some other brutal measure, is used to break down the will and to secure a confession. This practice is quite different from the custom of the English, where the prisoner is warned when arrested, not to make any statements which might be used against him in his

trial. Wherever the third degree becomes brutal, crimes will be confessed which have never been committed; innocent persons will be implicated and infamous lies invented to satisfy the demands of the torturers. Under duress of pain and fear, a man may make any admission which will relieve his suffering, on account of which his mind may lose the power to discriminate between illusions and real memory.

A. *Example of Third Degree Blunders.*—An instance showing the injustice possible to third degree methods was observed by the author in his early experience in prisoners' aid work in Baltimore. The son of a refined old gentleman, who lived in Boston, drifted into Maryland, was convicted of crime and sentenced to eighteen months in the Maryland Penitentiary. After his release, he applied to the Prisoners' Aid Association for temporary aid and was taken into the Industrial Home for discharged prisoners, where he was employed several months. The young man demonstrated by his application and interest that he was trying to reform, and he was finally promoted to the sales department, notwithstanding the fact that he was a mild case of dementia precox.

At Christmas time he was assigned to deliver toys and small furniture in a fashionable residence district, where he collected small sums of money for which he accounted regularly. One day a gentleman called at my office with the information that the young man had made a collection at his home and while waiting for the maid to secure the change he was standing in the hallway near the dining room; but during the time the maid was absent, he had stolen a large quantity of silverware.

The gentleman had already notified the police and was ready to appear against the youth to convict him of grand larceny. I immediately accompanied the gentleman to the office of the chief of detectives, where I found the young

man under arrest. The chief astonished me with the statement:

"He has made a full confession and has told us where he concealed the goods."

I inquired with surprise, "Fred, did you really steal the silverware?"

"I think I did, but I am not sure; but if I did, I do not remember it. I informed the police that if I did take it, I had hidden it under a loose board in the floor of my room." The detectives had exacted a confession by threats.

In a few moments the men who had been dispatched to search the room, returned with the information that they had made a diligent search, but had found no trace of the loot.

I then informed the chief that the young man was mentally afflicted and professed to have occasional lapses of memory; that his statements made in his examination were the result of a sincere effort to recall whether or not he might have stolen the silver; that he possibly would remember the occurrence later, but that I did not believe him guilty. After some argument the chief decided to release the young man upon my recognizance and cautioned me to keep an eye upon him, lest he escape.

The following day the gentleman came into my office and said: "I owe that unfortunate young man an apology! I want to see him immediately."

When Fred was brought in, the gentleman was profuse in his repentance. He informed us that the maid had stolen the silver and had taken advantage of the timely appearance of an ex-convict in the home to throw the blame onto him. He tried to pay the young man for the inconvenience and embarrassment he had caused, but his money was refused. Without friends and under less favorable circumstances the young man would have spent another term in the penitentiary.

On account of the third degree, many an unfortunate has confessed to crimes he did not commit, through suggestion, under prolonged pressure, accompanied with physical and mental pain. It is gratifying to know that wherever the method is practiced today, it must be done secretly for fear of an outraged public sentiment. Intelligent public opinion is repelled by such methods and insists that means be employed which will secure better results and more in keeping with present civilization.

13. *Contributions of Psychology to Police Methods.*— Psychologists will eventually contribute methods to detect guilty knowledge, which will eliminate the last vestige of "third degree" methods. There has been much experimentation on various phases of association tests, from the time of Francis Galton in 1879, Dr. Breuer of Vienna in 1881, to Dr. Sigmund Freud, Dr. C. D. Jung, Dr. Hugo Munsterburg and many other psychologists, who have arrived at conclusions more or less conflicting and having, as yet, little practical value in the detection of guilt. In the Munsterburg method, the subject was given words, as in ordinary association tests, to which he was instructed to reply with the first word that came into his mind. In this list of words were inserted occasional words connected with the details of the crime which the criminal was concealing. If the reaction time of these words was longer than the average reaction time of the other words it was assumed that the emotional complex of guilty knowledge was inhibited in the mind of the subject, because of his recognition of the incriminating nature of the word. He hesitated to answer and the time was recorded against him. The reaction time was recorded by a chronometer, observed by the psychologist; and the subject was requested to state frankly his mental reactions to each word, from which certain deductions were made as to his guilty knowledge.

A. *Association of Ideas.*—Dr. Edwin W. Katzen-Ellenbogan [1] gives an instance in which a man who was charged with the crime of highway robbery was committed to the Danvers Hospital as an epileptic. Symptoms of amnesia were noticed and he was reported as drunk at the time the robbery was committed. Dr. Katzen-Ellenbogan determined by means of association tests that the subject was simulating and the examination finally led to a complete confession. From this, and other experiments of like nature, the experts drew the conclusion that associaiton tests can be of great assistance in criminal investigation, clearing away doubts as to the truthfulness of witnesses. He thinks, however, that psychology in its present "adolescent" state should not be generally employed as a positive determinant of guilt, as it would lead to miscarriages of justice.

B. *The Munsterburg System Not Practical.*—Munsterburg, in his book "On the Witness Stand," tells of many experiments in which this method was employed to determine the association of ideas in the mind of witnesses. He gives instances of people who had confessed to crimes, whom he proved to be innocent by the method. He says: "Under these circumstances, it is surprising and unjustifiable that lawyers and laymen alike should not have given any attention, so far, to the methods of measurement of association which experimental psychology has developed in recent years. The chronoscope of the modern psychologist has become, and will become, for the student of crime what the microscope is for the student of disease; it makes visible that which remains otherwise invisible and shows minute facts which allow a clear diagnosis. The physician needs his magnifier to find out whether there are tubercules in the sputum; the legal psychologist may in the future use his mental microscope to make sure whether there are lies in the minds of the suspects."

[1] *Journal of Abnormal Psychodogy,* Volume 6, Number 1.

Dr. Munsterburg was enthusiastic about results obtained, but the practical value of his methods has been discounted to a great extent by subsequent students.

C. *Research of Dr. Marsdon.* — Dr. Marsdon, in the Harvard Laboratory, carried on some remarkable experiments, using blood pressure tests to determined the truthfulness of testimony in regard to guilt, the results of which have been given in various magazine articles. We do not have sufficient space to go into details of these findings more than to say that all of these investigations have, at least, opened the way to future research, which may again demonstrate that modern psychology promises to be of as great assistance in bringing criminals to justice as in correcting them after conviction. Police departments will be quick to make use of practical methods for crime detection and will be glad to discard the "ordeal-like" third degree as soon as such discoveries are authoritatively established.

14. *Injustice of Straw Bondsmen.*—It is the privilege of every person arrested to be taken, without unnecessary delay, before a magistrate. If the police court is not in session, the question of admitting the prisoner to bail to insure his appearance before the court is considered. The laws provide that the police accept bail from any person charged with a misdemeanor and, in a majority of cases, when charged with a felony. The bond must be in form of cash or real estate. Great abuse is sometimes permitted in the corrupt practices of professional and straw-bondsmen. The professional bondsman is usually a loafer about the court who, for a consideration, puts up the bond and receives exorbitant interest on his money. The straw-bondsman swears that he has a certain property which he does not own, or he names the same property many times for as many different cases, and thus constitutes himself a felon by his perjury. This pernicious vocation prevails to an alarming extent in some of our large cities, giving rise to divers kinds

of abuses, and results in a failure to give proper protection to the public.

The first loophole in the court through which the crafty criminal seeks to evade the toils of the law is to give bail. He is then free to continue in crime, and the public is the loser. In many communities this is easy to do through the efforts of shyster lawyers who spend the whole of their wretched existence defeating the ends of justice. It matters not to them how their clients secure their fees, so long as they get them. There are obvious ways in which this can be done—the public pays the bill. Cases are by no means rare of criminals resorting to robbery, boot-legging and other crimes to pay retainer fees to these legalized tricksters. Of the two it would be difficult to choose the greater criminal.

15. *Inhumane Detention.*—Inability of the prisoner to furnish bond necessitates his detention until he can be given a hearing. He is placed in some kind of a station house. These dens are frequently a disgrace to the community. In many of them the cells are in basements, without pure air and sunlight, and not fit for even the temporary habitation of human beings. The beds, in some instances, are merely iron frames, without mattress, covers or pillows. In most station houses little care is taken to classify the prisoners, the old and young, colored and white, diseased and insane, all being huddled together in narrow quarters. The cells are frequently crowded. Refined citizens who are afterwards proved innocent are thrust into the closest contact with drunken, filthy or diseased individuals. It is now recognized that an important requisite is the complete separation of the sexes, out of sight and hearing of each other. Women should be cared for by matrons only. Contamination of character is often wrought in places of detention by a brief contact of the first offender with degraded persons. Children should be sent at once to a detention home.

Sanitary toilets and baths should be maintained, so that the prisoners who desire to appear in court in a presentable condition can have the opportunity to do so. The uncouth appearance of the accused in the trial is often regarded as an index of character, influencing the court unfavorably in its findings. We must always keep in mind that the law assumes that the accused is innocent until he is found guilty. If harsh methods must be used, we certainly should not apply them to the innocent.

16. *Blunders of the Police.*—There is no department of government requiring a greater degree of sagacity, persistency, bravery, sympathy and honesty, combined with good common sense, than is demanded of the police official. Too much time is often given by the police to petty disturbances and trifling misdemeanors, to the neglect of other more serious offences. Jails and workhouses are usually crowded with the unfortunate poor, many of whom could be on probation, or who should not have been arrested; while many characters serve workhouse sentences whose chief defect is that they are suspicious or vagrant characters. They are sometimes, of course, guilty of major offences, and they are safe from further depredations while in custody, but nothing is done toward their reformation. Note the appalling number of recidivists in our workhouse population.

The press has had much to say of late about the "crime wave" and the failure of the police to stop it. We cannot employ the bulk of our police force in the regulation of traffic and other minor duties, and permit our half-lighted streets to be unprotected without paying for it in bitter experience. Far too many of our police are in uniform. It is true that the uniform lends dignity and authority to the officer and the department, but it is also a warning to the thug.

17. *Winking at Crime by the Police.*—There are many reports of favoritism shown by the police in numerous

cities. At the time of this writing the newspapers are full of sensational reports of an investigation by a councilmanic committee as to why a chief of police resigned shortly after he announced his policy to clean up the "blind tigers" and gambling "joints" of a large city. Developments tend to reveal that the lawless classes have resorted to political pressure and an astounding amount of bribery to permit wholesale outlawry in that city. This prostitution of justice is by no means uncommon. The people read and lament; they talk much about the deplorable situation, and do nothing. On election day the real issue is camouflaged and the masses stay at home, play golf or work in their offices. "A hopeless task," they say, and continue to allow the same riff-raff to control the city. The whole matter would be laughable if it were not so tragic.

18. *Dangers of Condoning Crime.*—The condoning of semi-respectable criminals who indulge in petty thievery is too generally practised. A large department store employs private detectives, who frequently arrest "shop-lifters" and conduct them to the main office, exposing their crime. These petty criminals usually receive a lecture and are dismissed, with the resulting impression that it is not so hazardous to steal; and they repeat their offence in other stores, without the disgrace and inconvenience of arraignment in court. Too often a sympathetic employer discovers irregularities on the part of an employee and sentimentally gives him another chance. Fathers, to save the family from disgrace, pay out large sums to prevent their criminal sons from being haled into court. There is much more crime concealed and covered up than is punished. Public officials are merely thrown out of office for bribery and embezzlement, and nothing further is done to demonstrate that it does not pay to commit crime.

19. *Obligation of the Public to Help the Police.*—The police and courts are the agencies of society to sift out the

anti-social from the social. This sifting should be done in a business like manner. False sentiment cannot safely have a prominent place in the process. The customer of a bootlegger should be held equally culpable with him. He is as much a criminal, if not legally, as the receiver of stolen goods. The bootlegger could not carry on his nefarious business if he did not have customers. If the moneyed people did not patronize him he could not afford to continue his criminal trade. The Eighteenth Amendment would soon be more highly respected if we did not have so many criminally minded people in the higher circles who patronize its violators. The person who aids and abets its evasion is in no sense a good citizen. How, with any semblance of consistency can he admonish his son to refrain from burglary or highway robbery, if he patronizes the bootlegger? These sad facts are destroying the dignity and the supremacy of the law in the minds of young Americans.

When we take in consideration that the people who live on Plane Z are using their influence and bribes to keep gambling dens, "booze" gardens and houses of vice wide open we can better understand why crime is rampant on the lower levels. When the police can be bought off and corrupted by crime rings, and police power is controlled by unseen influences such as was used on the above mentioned chief, we know why criminals in such cities are so open and intrepid in their sordid trade. It could not be otherwise. "Mr. Respectable" has no more right to shatter the laws of the state by supporting an up-to-date garden of vice than poor John Doe has to steal an automobile. The grand lady with the ornate car and tousled canine has no more right to stretch her silk-clad members under a gambling table than the unfortunate girl, out of work and in desperate need of food and shelter, has to accept spoils from a libertine she meets on the street. How many young boys gravitate to the alluring way of crime because they behold their

elders committing crime with impunity. They cannot understand why they are not permitted to do the same. This very natural conclusion has started many a boy on the downward path. Many of these youngsters were not really evil at heart, nor vicious by nature, but they were just weak enough to fall easy victims to examples practised unmolested all around them. They might have made fairly clean citizens, instead of desperadoes, if they had been strong enough to resist the evil influences which the public failed to discourage. We cannot, of course, lay these derelictions onto the police, but rather upon the public for its failure to help to lighten the load they have to bear.

20. *Superlative Responsibility of the Police.*—The reformative or punitive process in eliminating the criminal begins with the police. There is no other method known at present than to wait for the criminal personality to assert itself by the commission of crime before the process of correction can begin. A certain amount of damage must be perpetrated on society before we can determine that a criminally inclined individual is dangerous to be at large. The unwary public must, therefore, suffer a certain amount of loss in the process. It is of utmost importance, therefore, that this sifting process should be done scientifically and effectively. We should not be compelled to wait until a series of depredations have been committed before the culprit has been consigned to the corrective machinery. Under our present legal system many criminals are well known to the police as "shady" characters, who cannot be convicted because of the lack of admissable evidence. It requires great tact and skill, as well as a fair knowledge of the law, to determine when an arrest should be made. Much of the responsibility for the escape of criminals, both from arrest and conviction, is that the police are not properly trained and that they are inefficient. They fail to secure evidence upon which a conviction can be secured, often being satisfied

when the arrest has been made and placing the blame upon the courts if the offender is not convicted. The result is that a very small proportion of convictions is secured. The findings of a survey made by a committee of distinguished legal experts on the defects of criminal justice were recently presented to the American Law Institute, at Washington, D. C., which shows that there is a much higher proportion of crime in the United States than in England or Canada. This committee is composed of such eminent authorities on law as ex-Governor Herbert S. Hadley, William E. Mikel of the University of Pennsylvania, and John G. Milburn of New York. Their report attributes the alarming increase of crime to the fact that "there are altogether too many crimes committed by those who are not apprehended. There are too many indicted who are not tried. Too many of those who are indicted escape prosecution, conviction or punishment in ways other than by acquittal." The onus of these charges is laid upon politics in police departments as one great source of laxity in the punishment of criminals. To demonstrate the above assertions the committee says that there were 2,825 serious crimes committed in Baltimore in six months of 1923, yet only 734 arrests were made on account of them and only 440 persons were indicted. This would be less than one indictment for six crimes committed. They refer to the Cleveland Foundation Survey on Criminal Justice, which shows that for an average of 1,000 persons arrested in Cleveland on charges of felony or pled guilty, 148 afterwards changed their pleas to guilty, 118 came to trial, 143 were dismissed or convicted as misdemeanants in the municipal courts, and the other 500, whether guilty or innocent, escaped from the meshes of the law because the police released them, the prosecutor nolled their cases, or the grand jury refused to prosecute.

In the light of the above facts we conclude that the first governmental agency for deterring crime is the police. To

the extent that this force is scientific, active and honest, crime will be discouraged.

Deterrency rests not so much in the severity of punishment as in the certainty of detection and arraignment. Crime is a warfare against society and it certainly must be met by warfare. The police organization constitutes our standing army to protect the very foundations of civilization. Many of these, however, are good and brave men, who heroically risk their lives to protect society, and these deserve the greatest praise and consideration for their sacrifices and service.

CHAPTER XV

SOCIALIZING THE COURT

1. *The Court as a Deterrent.*—Criminal jurisprudence always proceeds upon the theory that the severity of punishment is the most potent deterrent of crime. For this reason the law prescribes various penalties for crimes, gauged by the conception of legislators and public sentiment as to the enormity of the offence. Penalties, therefore, range all the way from fines or short sentences in jail to life in the penitentiary or the death sentence. It is true that, next to the police, the court is the greatest deterrent of crime, when conducted in an efficient manner; but it loses much of its deterrent influence because of fundamental defects in its operation which offer hope to the criminal that he can escape the penalties of the law. We do not mean by this that penalties should be unduly severe, but rather that they should be certain. There should be no legal loopholes through which the guilty can escape, but rather there should be the utmost speed in detection, arrest and conviction, if intimidation is to have a prominent place in the corrective process. The average law breaker deceives himself into believing that he is cunning enough to cover up his tracks and avoid arrest; and, if perchance he is arrested, he will in some manner escape conviction.

2. *Purpose of the Court Is to Protect Society.*—A principle which cannot be denied is that society must maintain machinery of sufficient prowess to preserve the dignity of the laws enacted for the protection of all the people. Otherwise the state would disintegrate. Mr. Boies says: "The defence of society against crime enunciates three ethical

laws especially, as inexorably regnant in the trial of criminals, among those definitely enacted or established by courts:

"1. That it is the main object of the trial to enforce obedience to law.
"2. That it is the exclusive purpose of the trial to determine the measure of the guilt or the innocence of the accused by the full disclosure of all the facts and law pertinent to the case.
"3. That it is the supreme duty of the judge to compel rigid conformity to law in every process of the trial." [1]

3. *Defects of the Court.*—To realize the above ideals while society is constantly becoming more complex and increasingly difficult to handle, the court should make progress in keeping with advanced knowledge, but, unfortunately, it does not. The English court, after which our courts were originally patterned, has made many changes for the better during the past century, but court procedure in the United States remains very much the same. Ex-President Taft, after becoming Chief Justice, remarked that "the administration of criminal law is a disgrace to civilization." Edwin H. Sutherland says: "Three of the principle objects of criticism in the court system are (a) the prevalence of 'fixing' cases by political or other influence; (b) the 'sporting theory of justice'; and (c) the lack of organization of the courts. From the point of view of the guilty criminal who has money enough to secure a release on bail and employ a clever lawyer to fight for him, these are not defects; they are the virtues of the system. But they are defects from the point of view of the public, and they result in distrust of the courts, disrespect for law, great financial cost, failure to apprehend and convict many who are actually guilty of crime, and much hardship upon those not guilty of crime

[1] Science of Penology, p. 425, Henry M. Boies, courtesy of G. P. Putnam's Sons, Publishers, New York and London.

but who must be involved in court procedure, either as defendants, witnesses or jurors." [1]

It is not our purpose to go into detail to explain these defects, but rather to point out certain salient facts which show that the law and the courts have not yet blended into the more modern system of penology.

4. *The Old Theory and the New.*—The modern theory of criminology is that all anti-social personalities should be sifted out of society for correction; or, in case correction is impossible, for permanent segregation. The old theory was that certain property or personal rights had been violated, for which the criminal should suffer in proportion to the enormity of his offence, for the purpose of retaliation and intimidation. Since the science of criminology has not yet developed to a degree of perfection that we can safely and justly sift out the criminal personality until the overt act has been committed—the symptom of criminology—we must depend upon the courts, defective as they are, to make this selection.

The fundamental weakness of our present jurisprudence is that the law classifies the criminal as a robber, a thief, a yeggman, a murderer, a rapist, or vagrant according to the crime he has committed and assesses his punishment according to the degree of his offence rather than with any regard to his actual needs for his restoration and readjustment. As a result the penal institution is compelled to do the best it can with the criminal for his correction during his term of incarceration, and to be content with the length of this time, whether it is too long or too short, to accomplish this desired end. The big, central fact is that he has been sent to the institution for a certain length of time. When that time has expired he is free, whether reformation has been effected or not. The indeterminate sentence, with a prescribed minimum and a maximum, is a great improvement,

[1] *Criminology,* p. 255. J. B. Lippincott Co., Publishers, Philadelphia.

but we are still hobbled with the embarrassment that the criminal has the time element in his mind as the chief goal. When a certain time has been reached, which he has estimated to the day, the doors must swing outward and give him his freedom. This occupies his thoughts to the exclusion of the highest objective—his cure.

The modern theory of correction places the emphasis upon his restoration; the time for his release to be determined by his improvement. His custodians, who are also his physicians, measure this improvement by his co-operation with the corrective measures determined upon in the prognosis. His mental, physical and moral reaction to this course and his subsequent destiny thus rests upon his own responsible shoulders. If his malady is due to such mental disease or defect that he cannot respond to the treatment, he becomes a permanent ward of the state for his own good and the protection of society. There is, therefore, this almost insurmountable barrier between the antiquated retaliative theory of the court and the therapeutic objective of the reformatory to face in the case of every criminal personality to be handled. It places a limitation on the influence of the reformatory, because the objective of the criminal is to do his time, peremptorily assigned to him by the court, after which he is to get his freedom. His whole thought content is that he is being punished. Under the modern theory his thought constantly dwells upon his own reformation, because that alone would determine the time of his freedom. The great objective of the court, if he is guilty, is to convict him of a specific crime, to which the law assesses a penalty. The culprit, having been sentenced, shoulders the burden of doing a specific amount of time to pay that debt. The difficulty of the reformatory is to effect a cure for the malady it has discovered in his personality while he is serving that sentence. It often happens that the cure is not complete at that time, and the consequence is

that the process of detection, arrest, conviction and treatment must all be done over.

5. *The Incongruity of Prison Sentences.* — Our courts will never be able to administer uniform justice as long as our laws attempt to measure out retributive punishment according to the enormity of the offence. There are many convicts in every prison who are hardened by the knowledge that they have received sentences two or three times as long as their fellows whose crimes were practically the same as their own. A judge in the State of Missouri sentences men to the Kansas City Municipal Farm for ninety days for the same offence for which his colleague in the County Court commits to the state prison at Jefferson City for two and three years. The common practice is to try men in the municipal courts on the charge of vagrancy if sufficient evidence cannot be secured to convict them of felonies. Even in different courts of the same grade sentences in one are extremely severe and in another they are very light. The difference lies in the personalities of the judges. It is a well-known fact that on different days the same judge reacts differently and is severe or easy according to his temperamental changes or the state of his health.

Boies says: "The average of sentences for burglary ranged in 1890 from one year and six months in New Mexico to eight years and six months in Georgia. This leads the criminal lawyer to try to secure for his client a trial before a court which will be likely to inflict the lightest sentence." [1]

6. *Felons and Misdemeanants Not a Proper Classification.*—Some of our leading sociologists point to the fact that the legal distinction between felons and misdemeanants is an unnecessary and misleading procedure, which is a great hindrance to progress in the correction of the criminal. It is another case of a distinction without a difference. This

[1] *Science of Penology*, p. 82.

differentiation also directs the corrective machinery to the offence rather than to the individual. A felony in one state may be a misdemeanor in another. A felon is sent to the state prison and a misdemeanant is sent to jail or to the workhouse. As a result a man may find himself in the state prison for an offence and the next time in the workhouse for doing the same kind of deed. He shuttles back and forth from one institution to another according as his case is interpreted by the law, making extensive, consistent treatment for misdemeanants impossible.

Dr. Stuart A. Queen, in an address before the American Prison Association at Boston, said:

"Another popular illusion is shattered when we discover that even in the same state some misdemeanants are more of a menace to society than are some felons. To verify this we should cite some case records; time forbids just now, but let me ask that you select from your own personal experience and contrast misdemeanants, professional beggars, habitual vagrants, feeble-minded prostitutes with felons who are accidental, occasional or merely technical offenders. You will surely agree that some misdemeanants are so defective mentally, or so firmly established in anti-social attitudes and conduct that it is doubtful whether anything short of permanent custodial care will suffice. On the other hand, some felons have so good mental and physical equipment and are so well settled in habits of industry and sobriety that it is altogether reasonable to expect them to become good citizens again within a relatively short time.

"Statistical studies of offenders fail to reveal any intelligent basis for this classification in age, sex, race, nationality, occupation, physical or mental condition. Classification along any of these lines would cut right across the existing legal boundary between misdemeanants and felons.

"Finally, case records reveal the fact that the same man is now a misdemeanant, now a felon, without fundamental

change in himself. Men oscillate back and forth between state prison and county jail simply on the basis of the last offence for which they happen to be caught and convicted. The place of imprisonment is determined by an arbitrary classification of isolated acts, not by any consideration of the man behind the acts. To the man who is not steeped in blind reverence for things as they are this seems the height of absurdity." [1]

7. *Short Sentences for Misdemeanants.* — The practice of sentencing misdemeanants for ten or fifteen days to the workhouse or jail is a tremendous expense to the government and a sad disappointment to society. We have often heard the remark from prisoners: "I could do that bit standing on my head." The writer knew one female recidivist who boasted that she had been sentenced two hundred and forty-seven times for petty offences. A great many others have come to our attention who had records of fifty, sixty or even a hundred commitments. How much better if the first sentence, when the offender was young in crime, had been "until cured." Large numbers of these "drunks," "vagrants," "junkers" and "petty thieves" repeatedly find a ready entree into the jails and workhouses in every city. The police courts, prisons and taxpayers are kept working overtime by these "short-time" recidivists who are a greater nuisance to civilization than we generally appreciate. Society bears the burden with little concern, and no one consistently tries to solve it. When a state enacts a "tipplers" act, prescribing an indeterminate sentence for a third conviction in the same court within a year, as was done by Michigan a few years ago, the courts seldom take advantage of the opportunity to stop the evil of habitual intoxication.

8. *Convictions Differ in the New York Municipal Courts.*—The Committee on Criminal Courts of the Charity Organization Society of New York recently made a survey

[1] *Proceedings of American Prison Association,* 1923, p. 298.

of sentences pronounced by the forty-two judges or magistrates of the city courts, extending over a period of several months, during which 155,000 cases were handled. Of these cases 17,075 persons were arraigned for intoxication, of which 92 per cent were convicted and 8 per cent were dismissed. One judge tried 566 persons, of which number he discharged only one. Another judge tried 673 and found 531, or 79 per cent, not guilty. Between these two extremes were all degrees of attitude.

Of 43,096 persons arraigned for disorderly conduct one judge discharged 18 per cent, another 54 per cent. One judge discharged only 4.5 per cent arraigned for vagrancy while another fined only 7 per cent.[1]

9. *The Limitations of the Judge.*—It must be admitted, however, that we cannot blame the judge for the stupidity of the laws under which he operates. He fulfills his sworn obligation to society when he decides a case according to the law and the facts, pronouncing sentence in compliance with written mandates governing the case. This is about all that present-day public opinion seems to require of him. Neither can we find fault with him if he does not sentence others who violate the law, but are not brought before him for trial. We cannot evade the fact, however, that there remains a tremendous amount of the retaliative element in our criminal code—relics of the early days, when the penalty had to be severe. The incrustations of medieval society cling so tenaciously that it is hard to shake them off.

We must also remember that, however wise and considerate a judge may be, he is just a human being, subject to the same variation of feeling and as subject to vulnerability as the rest of us. The state of his health, mental attitude, the power of public influence, the over-persuasion of attorneys and seemingly important happenings in the trial sometimes

[1] Adapted from Theodore Schroeder, in *The Psychological Study of the Judicial Opinion,* California Law Review, January, 1918.

have much to do with the fate of the accused who hangs in the balance.

An illustration of this kind of blunder came to our attention a short time ago. Two Italians who had never been in court before were tried for receiving stolen goods. Both were equally guilty and the circumstances of their guilt similar. One of the young men was suave and courteous to the court. The other, rough-shaven and poorly dressed, became agitated and called the prosecutor a "liar." The well-behaved, well-dressed prisoner was sentenced eighteen months to three years. On account of the general appearance and deportment of the other man he was given a sentence of three to six years. Subsequent treatment disclosed that the man who was given the longer sentence was safer to be at large than his "buddy." Because the more dangerous character of the two could speak the English language more fluently and better understood the value of diplomacy and personal appearance he made a more favorable presentation of his case. The course of treatment was thus arbitrarily prescribed in advance by a "snapshot" guess of the court.

10. *The Indeterminate Sentence.*—If we accept the modern theory of reformation, the chief end to be gained in a sentence is the cure of the offender. This premise assumes that there is some kind of ailment which is responsible for the crime, and that the function of governmental agencies, such as the court and the prison, is to produce the remedy.

If there is no remedy, society should not be put to a continuous expense of detecting, arresting and trying the incurable offender. Neither should the property and person of the public be subjected to repeated offences which could have been settled in one supreme prognosis of the case. A thorough diagnosis in the first trial determines that the culprit has a criminal personality and that he should be a ward of the state until a cure has been effected. If this

cannot be accomplished in a short time he should be held until his physicians pronounce him cured for his own good and for the protection such isolation would afford to society. No judge nor physician can predict at the time of conviction how long it will require to make him into a law-abiding citizen. The indeterminate sentence is the only determinant.

A. *First Step in Individualization of Treatment.*—Without the indeterminate sentence it would be difficult to conduct a reformatory system. Under its theory the time of release is determined by the improvement of the individual prisoner, which is partly judged by the institutional records, thus providing the highest incentive for diligence and good deportment. This law is the first step in the individualization of treatment. The prisoner throws himself into the drift of efforts put forth for his cure and strives earnestly to show, by application to his studies, work and other restorative measures, that it will be safe for him to be paroled.

He is thus taught to cultivate obedience to authority, to respect the law, and to learn some useful trade while earning his release on parole. It provides for a gradual return to society and a preparation for return at such time as his acquired merits indicate that his reformation is effected. If he violates his parole he is returned to the reformatory, or sent to a more severe institution, where he is kept for another indefinite period. It is thus seen that the indeterminate sentence is a much stronger bond to bind the prisoner to correct living than the time-worn definite sentence.

B. *Elimination of Maximum and Minimum.*—Theoretically the minimum and maximum of the sentence should be abolished, thus giving the greatest possible latitude to the correctional authorities to retain custody over the prisoner until he is pronounced cured. There is a widespread apprehension, however, that injustice might result from this broad power through political or other selfish motives. Some prominent penologists fear that to sentence first offenders to what

appears, at first thought, to be a life sentence might react disastrously in giving the enemies of the indeterminate sentence a weapon to force its repeal. Reasons advanced for the definite sentence range in motives from absolute vindictiveness to the constitutional precaution that sentences "shall not be cruel or unusual." However, the time will come when the public will realize that society can be better protected by one effective sentence, terminated at the time and not before a complete reformation has been effected. This is the principle in practice for all insane hospitals and medical hospitals, and no one will arise to accuse them of unscientific or selfish practices.

C. *Parole at Proper Time.*—There is, without a doubt, a right time when the prisoner who can be reformed will be most benefited by a parole, and no doubt many are injured because they are held in a prison for a longer period than is necessary for restoration, simply because the judge, or the law prescribing a definite penalty, has determined beforehand that they cannot be released until a certain fixed time. Readiness for parole depends not only upon good conduct and diligence in the institution but also upon the mental reaction of the prisoner to the reformative influences that have been thrown about him. There comes a time when he becomes saturated with these influences; and at that psychological moment he should be regarded as ripe for trial in the freer life of the community. If he is held beyond that time of moral maturity he is like an overripe pear which, hanging unplucked on the tree, begins to decay. It is possible that he will never again be in as good condition for parole as he was at that strategic moment.

D. *Determinate Sentence Places a Tremendous Responsibility Upon the Judge.*—It is a sufficient burden for the court to determine the guilt of the accused without shunting upon it the superhuman task to prophesy the actual date when he will be restored to good citizenship. No one knows

when it will be. It may be soon. It may be never. Subsequent experience alone can reveal that all-important fact. Many a prisoner of hopeful prospects has been held so long in prison that he became "institutionalized," corrupted, and discouraged before he was released. Recidivism was the result.

Dr. White[1] says: "The basic object of criminology is to cure the fault, or at least to do the best that can be done, and not wreak vengeance upon the offender. Society would be as adequately protected with the criminal in a hospital for the insane as if he were in a prison and there would, too, be a better chance that he might come out, in part at least, socially rehabilitated. In this connection it is interesting to note that a review of the criminal population of St. Elizabeth Hospital shows that the criminal who is sent here from the prison stays in that hospital on an average of two and a half times longer than he would have stayed in prison had he been discharged at the expiration of his sentence. This ought to help satisfy those who want the criminal punished. The principle is that the criminal by his own acts, so to speak, commits himself to the custody of the state, there to stay, not for an arbitrarily predetermined time, but until he demonstrates by positive evidence, his ideas and his conduct, that there is reason to believe he might get on outside. Just as soon as he merits a trial then he may have it—not before. It is precisely this principle that governs the custody of the insane and it operates with this class without serious difficulties. Why should it not operate with criminals? The fear that it will not is largely built up of imaginings and not actual experience. The problem is of the same nature—a problem of behavior."

E. *Commission to Determine Sentence.*—The court should be required to commit criminals, who have been legally convicted, into the custody of a scientific correctional

[1] *Insanity and the Criminal Law,* pp 224-225.

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commission charged with the responsibility of holding such criminals until cured, whether that period be on probation, treatment in the reformatory, psychopathic hospital, colony for the defective or reformatory, according to the character of the individuals so sentenced. This would eliminate many reappearances in court of a large class of recidivists, who cost the government many millions of dollars each year trying the same individual time after time. It would also show law violators that the state means business in law enforcement, and would be the best possible deterrent.

F. *Objections to Indeterminate Sentence.*—Many judges have demurred at the indeterminate sentence because it curtails to some extent the "Divine right," handed down to them through countless generations. Some have sought to defeat the spirit of the sentence by fixing the minimum so close to the maximum as to allow no leeway for reformatory incentive. We have seen many sentences with only a month or a few days intervening—for instance, "seven years and eleven months to eight years." As a result, some states have enacted laws providing that the minimum shall not exceed one-half the maximum. Federal prisoners with long sentences are eligible for parole after they have served one-third of their sentence. Some states name only the maximum. Massachusetts, New Jersey, Indiana, Illinois and New York give great latitude to their reformatory authorities in determining sentences.

11. *Personality Diagnosis as a Court Adjunct.*—In harmony with the view that the trial is the first opportunity for scientific diagnosis of the criminal personality, some of our most progressive courts have added biological, sociological and psychological facilities for conducting preliminary investigations. Clinics are maintained in connection with those courts for the discovery of mental defects and disease, extenuating circumstances, various factors of causation and every fact which will enable them to prescribe a course of

constructive treatment fitted to the character of the offender. One of the paramount demands of modern penology is that every branch of government called upon to administer to the reformation of the offender shall make a consistent effort to fit the treatment to the needs of the patient rather than to fit the penalty to the crime. When this method is universally employed we may have some assurance that we can determine upon an accurate prognosis.

This study is usually made under the following divisions:

(1) The history of the criminal is given a careful investigation by social investigators and a synopsis is presented to the court on such points as the following:

a. Birth.
b. Parentage.
c. Upbringing by parents or institution.
d. Marks of inheritance (mental defects, etc.).
e. Individual characteristics (covering a large field of examination).
f. Schooling.
g. Occupation.
h. Military training.
i. Imprisonment.
j. Religious adherence.
k. Club and social influences.
l. Brothers and sisters.
m. Marriage relations.
n. Children.
o. Individual statements of circumstances surrounding crime.
p. Employers and friends, references.

(2) A psychological study of the offender is made by a competent psychiatrist and psychologist to determine the mentality of the offender and his probable reaction to law and order, as well as to determine whether he was capable of the crime committed and to help determine a prognosis for future handling of the accused.

(3) A physical examination is made by a competent physician to ascertain whether the subject has any bodily

defects, nervous disorders, infectious disease, or vicious habits which should be taken into account.

These facts not only assist the judge in arriving at a knowledge of the criminal responsibility of the offender but also make clear the character of treatment he should receive.

Hoag and Williams, in "Crime, Abnormal Minds, and the Law," say: "Before the criminal behavior of an individual can be understood the criminal himself, then, must be subjected to the thoroughgoing examination of the psychopathic laboratory, which will investigate not only his physical and mental status but study his social development as well. The criminal court thus becomes not only a judicial but a sociological organization, for criminology is, after all, only a part of the larger science of sociology." [1]

12. *The Juvenile Court Sets the Pace.*—Fortunately the juvenile court is setting a wholesome example for the conduct of trials of the adult delinquent. Court procedure, manacled by ancient law and senseless customs, fails to secure the real truth in regard to the accused.

He is safeguarded against "unjust" incrimination by irrelevant, incompetent, and immaterial rulings until the actual truth upon which the verdict should be rendered is distorted out of all semblance of the facts, and the real welfare of the defendant is entirely ignored. In the juvenile court all biological facts, parentage, environment, mental and physical condition are given the most careful consideration. For instance, the fact that the patient has been subject to epileptic attacks, or is otherwise mentally diseased or defective, are taken into account; but in case of the adult such matters are regarded by our traditional court system as irrelevant and are accordingly ruled out. The law assumes that all imprisonment is for the purpose of punishment; hence this false barrier of protection. When our laws have been revised and the objective of conviction

[1] Page XVII.

is made the cure of the delinquent, the courts will seek to secure a truthful picture of the mental and physical needs of the accused.

13. *Immunity for Insanity.*—There is an increasing tendency on the part of criminals to take advantage of immunity from responsibility because of alleged insanity. In fact, there are many miscarriages of justice because the law does not recognize all kinds of mental disease, and the courts do not recognize the validity of expert testimony sufficiently to make a scientific disposition of cases, where mental defects and diseases enter as a factor, either in rendering a verdict or in the treatment prescribed.

The haggling of attorneys, cross-questioning and bickering to cloud the issue, is disgusting to experts who are called upon to give their opinions. The jury is seldom able to discern the value of such testimony. Much of the expert advice is adjudged irrelevant, immaterial and incompetent, so that this valuable information, which might guide the state to a scientific prognosis of the case, is greatly discounted. As a result, many are acquitted when guilty and many who are insane are sent to penal institutions that have no facilities to treat them.

A. *The Court and Jury Incompetent in Psychiatry.*—The average layman has erroneous views about insanity. He does not know that intelligence and soundness of mind have very little connection and that a person who may be exceedingly intelligent may, at the same time, be of unsound mind and capable of the most atrocious crimes. There are comparatively few raving maniacs ever in our insane asylums, but multitudes who are apparently normal, to the casual observer, are, in fact, positively insane. Hoag and Williams say: "All things considered, therefore, it is evident that the average person knows quite as little about insanity as he does about other forms of obscure diseases. It is little wonder, then, that trials by juries to determine

an individual's mental status are likely to be something of a joke, as recently suggested by a prominent jurist. Indeed, the result of our archaic method of permitting lay juries to pass judgment on a question of insanity is, in fact, a travesty of justice. . . . The number of cases that could be cited to confirm our observations in respect to miscarriage of justice in our courts alone would fill volumes—indeed, they do fill volume after volume of court records, as, for example, in a recent nationally notorious murder trial, which lasted over nine weeks and included over a million words of testimony. The expenditure in such trials represents thousands and thousands of dollars, which might rather easily be avoided by a simple, direct and wholly reasonable change in our process of legislation. Apparently this is fully appreciated by many of those connected with the administration of the law, yet nothing definite is done about it. This curious credulity and ignorance of courts and laymen about insanity and our anomalous state of judicial procedure is frequently taken advantage of by clever lawyers." [1]

B. *Criminal Potentiality and the Courts.*—Courts and juries are, therefore, at sea when passing upon the responsibility of an insane offender without the assistance of capable experts to discern the influence of abnormal mental traits on criminal behavior. Various kinds of mental abnormalities are responsible for a large proportion of crime. We often read of the unnatural, inexplicable deportment of some madman, who is brought to trial and sent to prison regardless of his mental condition. In petty offences the question of mental derangement is seldom taken into account in the average court, although we know that a considerable portion of prisoners in all of our prisons are psychopathic personalities, neurotic or to some degree mentally defective and mentally incompetent. The tendency is to return these

[1] *Crime, Abnormal Minds and the Law,* pp. 95-96.

characters to society at the conclusion of a short sentence—potential criminals, with no attempt on the part of society to give them proper custody or treatment.

C. *Dangers of Insane Criminals at Large.*—Hoag and Williams say: "Justice Wilbur of the Supreme Court of California has recently stated: 'Most pleas of insanity are made by sane people, who frequently go free, while most insane criminals make no insanity plea and are duly convicted and sentenced.' Moreover, it is one of the curious perversities of our civilization that the more pronounced cases of insanity are less likely to come to trial than the milder forms. In severe cases the mental abnormality is so obvious that the unfortunates are taken into custody without the courtroom experience. Yet one of the most dangerous of insane criminals is the one whose general appearance may least suggest mental abnormality to the average observer. The craftily scheming paranoiac, steeped in his purely imaginary persecutions but capable of thinking and talking clearly on almost every subject, is given scant consideration by most jurymen. This man talks well, looks well, and acts well in the courtroom, and on these things, rather than on any expert opinion that may be offered, the jury bases its verdict. Yet paranoia is probably the most dangerous and incurable, as well as the most deceptive, form of insanity." [1]

14. *Speedy Trial Essential to Justice.*—State constitutions provide that the accused be given a speedy and public trial, and the prisoner can demand acquittal for an illegal delay in the prosecution of the case. There have been many instances where innocent persons have been held for unreasonably long periods of time awaiting trial. This is an injustice to which any good citizen might be subjected by designing enemies if he were not thus protected. In some cases of undoubted guilt the attorneys for the defence some-

[1] *Crime, Abnormal Minds and the Law,* p. 75.

times succeed by trickery in securing delays until public indignation has abated and there is a better chance of acquittal. Many criminals escape conviction against whom there is ample evidence because of these unwarranted delays, until witnesses are unobtainable. Many acquittals are made possible through technicalities in the law, such as mistakes in court rulings, which render possible reversals of verdicts from the higher courts.

It very frequently happens in our present system that cases are worn out by delays. Time is the best friend the defendant has in a criminal case. To be obliged to continue a case is, for the defendant, to half win it. This is well understood, and so the defendant's witnesses, who are his sympathizers, often absent themselves that he may have grounds for continuance at the first term. We have heard the criticisms urged against New Jersey, Kentucky, Pennsylvania and various other states that there are more homicides in a single year in one of these states, with a smaller population, than in all of England and Wales. It is not an uncommon occurrence in an important felony case for the attorneys to consume ten days to two weeks to select the jury. These facts, together with many other loopholes in our court procedure through which the guilty may escape conviction, raise the hopes of the criminal that he will be able to evade the law. The courts thus lose their deterrent force.

A. *Contrasted With English Court Procedure.*—Two or three years ago a committee appointed by the American Bar Association was sent to England to study the administration of criminal law in that country. They were present during the hearing and trial of a sensational murder case in one of the English courts. We quote the following excerpt from their report: "The jury was accepted within ten minutes. When the jury was called into the box there was no examination made in court as to their knowledge, qualifi-

cation or fitness to try the particular case. In fact, not a single question was asked a juror by counsel on either side; although both sides have a right to do so, only one challenge was exercised, and that in the case of the sole woman juror called, and she was excused. Officials informed us that women are thought to be more severe than men in criminal cases. We were informed by the judge that this single challenge was the only one which had occurred in his court for three years."

These facts, together with the efficiency of Scotland Yard and general European police forces, may account to some extent for the contrast between the prevalence of crime in England with that of the United States.

A report was made to the American Law Institute, May 1, 1925, by a committee headed by ex-Governor Herbert S. Hadney, now Chancellor of Washington University, that there is more crime in this country than there is in England and Canada, due to defects in criminal justice. They attribute the increase in crime to the inadequacy of American police departments, and that a larger proportion of those who are prosecuted in the United States escape conviction than in England and Canada. They state that American criminal procedure is slow and cumbersome, and that its defects directly contribute to the increase of crime and its infrequent punishment. They also recommend uniformity of criminal court practice for the entire country.

B. *Contamination in the Places of Detention.*—Detention jails in some of our cities are schools of legal instruction where criminals awaiting trial learn the various crooked methods of taking advantage of the weak spots in court procedure. Long delays, because of crowded court dockets, provide ample time for them to plan ingenious methods of trickery to evade the law. Promiscuous association of the young and impressible with the heterogeneous characters

usually found in these "lock-ups" leads them into lives of utter depravity.

15. *The Legal Contest of Wits.*—As our courts are conducted to-day, the trial amounts virtually to a battle of words between the prosecuting attorney and the attorney for the defence.

A. *The Prosecuting Attorney.*—The prosecutor makes his reputation for re-election by winning as many cases as possible. He must cleanse society of its lawbreakers, whoever they be, young or old. He is correct in his purpose but often mistaken in his method. His job is a stepping-stone to the bench or some higher position. The public lauds him according to the number of convictions he secures. He often declares war upon a certain class of law breakers and summons all of his talents and legal ability to the one end that every defendant he prosecutes is convicted. He is sometimes influenced by his political friends who can assist him toward his coveted advancement. Many cases have been dismissed for this reason where guilt was evident, and many have been convicted who were innocent. The asinine stupidity of present-day law makes the scientific treatment of criminals exceedingly difficult on account of improper court organization.

It is the sworn duty of the prosecuting attorney to see that the defendant shall have a fair and impartial trial and that he shall be convicted on competent evidence only. To secure this end the prosecutor should himself be fair and impartial. There are some courts, however, in which prosecuting attorneys make wise and humane recommendations for scientific treatment for hopeful defendants, and in every possible manner use their office for the assistance of the prisoners who show reasonable prospects of reformation.

B. *The Attorney for the Defence.*—Attorneys for the defence are frequently too busy, or too lazy, to fight for poor and ignorant clients, and often in order to secure their

fees with the least possible effort, pursuade them to plead guilty and hope for clemency. The most able lawyers, as a rule, will not handle criminal cases and the quality of talent obtainable for the defense of the poorer classes is exceedingly mediocre. When a person is indicted for a serious offense the law provides that if he does not have the means to retain counsel the state will appoint an attorney to defend him. These attorneys are usually young and inexperienced, or "hangers on," who do not have ability to secure a clientelle in any other manner. This service is poorly compensated, except in the most serious cases. The result is that many persons are poorly defended.

C. *Public Defenders.*—Much has been written in recent years advocating a public defender for every court, who would strive as hard to prove the defendant innocent as the prosecuting attorney does to prove him guilty. The theory is that the law presumes the accused person to be innocent until he is proved guilty and it is the duty of the state to protect him as efficiently against an unjust conviction as to protect the rest of society by proving him guilty. The public defender will take much more interest in the accused than the counsel assigned by the court, because he has more at stake to maintain the utility of his office; he is likely to have greater ability than the average assigned attorney; he can specialize more upon defense methods, and is not so likely to resort to trickery. He is not prone to secure continuances and appeals nor to cheat justice by cheap artifices, so common to the average "shyster" lawyer. If there are any innovations possible for the welfare and scientific treatment of his clientelle, or the socializing of court practices he is likely to be their sponsor. Practical experience in some cities has demonstrated that the public defender is a real saving to the state and produces better results than the old plan of assigning counsel.

No less than fifteen cities have adopted the plan, in most

of which it is reported to be working successfully. Los Angeles employs two; one of whom is chosen by the County Board of Supervisors and the other by the Municipal Civil Service Commission. New York County has the assistance of the Voluntary Defenders' Committee, which defended a total of 2,197 cases during the period 1917-1920. The law provides County Defenders in the state of Connecticut. The public is awaiting the results of these experiments with great interest.

16. *Responsibility of the Judge.*—There is no greater responsibility in any public office than that of the man who sits in authority at the head of our courts. His two chief functions are to preside at the trial, enforcing the rules of evidence and interpreting the law, and to pronounce sentences upon those who have been convicted.

If our judges had an adequate conception of the numbers of characters ruined by unwise sentences they would be exceedingly cautious before they would say the fatal words which would, for instance, consign a young first offender to some of our penal institutions as they are conducted today. The very best prison for a large proportion of our youthful criminals is no prison at all. Picture to yourself the adventurous young fellow who goes wrong because of bad company, or faulty teaching, the accidental criminal or first offender who is consigned to a prison where are congregated a large number of professional crooks. The young mind is like plastic clay capable of being moulded into any shape. Promiscuous confinement with hardened men seals the young man's fate. His ears ring with tales of successful criminal exploits and the pleasurable excitation of "Dope"; stories of the gambler's millions and sexual indulgence; all of which are fertile seeds which fall into productive soil. A great number of these young fellows fall under the fascinating spell of slimy stories from degenerate minds and are lost forever. Imbued with the love of ad-

venture the youth enters the prison a novitiate; he leaves a confirmed crook or a debased degenerate, readily falling a victim because a life of license so strongly appeals to his half-baked judgment. The experienced criminal paints his escapades in glowing colors and leads the weakling to believe that he, too, without work, can live in luxury. Thousands of problem cases could have been led into respectable lives if it had not been for the unscientific decisions of some reactionary judges, whose only solution for crime is to give long and harsh sentences to satisfy the public that crime must be punished severely. How can the vindictive judge satisfy his own conscience that he is not making many mistakes to the injury of the individual and society? Here, if anywhere, in the administration of organized society is demanded the pinnacle of wisdom. It has been suggested from several sources that judges should become better acquainted with the destiny of men they sentence; that they should take the same interest in our prisons for adults that juvenile court judges take in the juvenile reformatories, to study at close range the results of their sentences. It has even been suggested that a judge should spend a period of time as an interne in the penal institution to which he consigns his prisoners, to help him to visualize the actual pain he administers and to acquaint himself with the facilities of the prison to accomplish the reformative treatment he has in mind for the men he sentences. At any rate, our courts should be socialized. Our law schools should teach scientific criminology. Our judges should, somehow, become acquainted with best methods of correction and the influence of such methods upon criminal personality. It would help them to make a greater effort to fit the penalty to the needs of the offender, rather than to the crime committed.

CHAPTER XVI

THE DEATH PENALTY

1. *The Popular Demand for an Effective Penalty.*—Capital punishment is the most ancient of all penalties. It was the most common penalty in olden times and is still the one most employed by savages. The chief element which commends it to barbarous minds is that it is the most effectual and quickest manner of eliminating the offender. A dead man is permanently disposed of and can give no more trouble. Cruel revenge also finds its fullest satisfaction in the dying agonies of the hated culprit who is being destroyed. The community which has been injured gloats in the satisfaction that the criminal has received his just desserts, and is apparently relieved when it is rid of him forever. The common theory behind all arguments for the death penalty today is that death is the most dreaded punishment known and that it accordingly has a greater deterrent influence than any other penalty.

2. *Various Barbarous Methods of Administering Death Penalty.*—Among the modes of capital punishment which have been practiced by various nations may be mentioned the following:—Burning, hanging, drawing and quartering, breaking at the wheel, crucifixion, strangulation, suffocation, drowning, precipitation from a height, dragging behind chariot, beheading with a sword, axe or guillotine, stoning to death, scourging to death, sawing asunder, flaying alive, crushing beneath wheels of vehicles or the feet of animals, throwing to the wild beasts, compulsory combat

in the arena, burying alive, the iron coffin, boiling in oil, impaling with sharp sticks or swords, pressing with machines, piercing with javelins, shooting, starving, poison, troughs, bites of serpents, blowing from the mouths of cannon, lethal gas and electrocution. Almost every device and mechanism possible to the ingenuity of man has been invented and employed in torturing and eliminating objectionable members of society.

3. *A Relic of Barbarism.*—The entire history of mankind abounds with atrocious tales of "man's inhumanity to man." In early times the most trivial as well as the most serious crimes were punishable with death in the most atrocious forms. In the age when superstition reigned in the name of Christianity, such superstitions as witchcraft, sacrilege, blasphemy and idolatry were regarded as grave offenses punishable with the death penalty administered in a torturous manner. The student of history frequently shudders at the atrocities practiced by Nero and other Roman governors in their attempts to quell Christianity. All through the dark ages, in the history of England, Russia, France, Germany and other European countries, as well as in the early colonial days in America, many imaginary and trivial offenses were punishable with excruciating tortures, ending in death. Blackstone enumerated 160 offenses in the English statutes of one hundred years ago, which were punishable by death. As late as the beginning of the 19th century execution was practiced for sending threatening letters, violating game laws, stealing fish out of a pond, injuring bridges, cutting down or destroying trees, stealing of 40 shillings or more, and other comparatively trivial offenses.

Dr. Wines in his book "Punishment and Reformation" devotes more than a hundred pages to a graphic description of the barbarous methods employed in the elimination of the criminal through the vindictive motive, and the cruelties

practiced for the purpose of intimidation. It is only necessary to read Dr. Wines' concise history of these blood-curdling cruelties to be fully convinced of the futility of such methods.

He concludes as follows: "The ancient laws of France authorized the infliction of the death penalty for more than one hundred distinct offenses. A French judge, named Remy, at Nancy, boasted that he had burned eight hundred in sixteen years, and that sixteen committed suicide in one year, rather than run the risk of falling into his hands. In the first quarter of the sixteenth century, the public executioner of Nuremberg put to death eleven hundred and fifty-nine persons. In the seventeenth century, it is said, the Parliament of Bordeaux burned more than six hundred sorcerers in a single year. Seventy thousand executions took place in England during the reign of Henry VIII. These are sample instances." [1]

4. *Society More Brutal Than the Criminal.*—From the very dawn of history society has shown far more cruelty in its treatment of its law breakers than the criminals displayed in violating the laws. This is the blackest indictment against the inhuman principles of society in dealing with its criminals.

Dr. Wines continues:—"The old legislation pushed its blind fury to the point of confounding the innocent with the guilty. Wives and children perished with their husbands and fathers; posterity was robbed for the enrichment of titled and clerical oppressors; if a slave was guilty of theft or murder, hundreds were sometimes slain for the offence of one. Revenge stopped not with the human species; animals, and even inanimate objects, were formally accused, tried, convicted, and sentenced. Punishment assumed *post mortem* and hereditary forms. Men were executed in effigy. In its administration the grossest in-

[1] *Punishment and Reformation,* p. 104.

equality was sanctioned by the law. There was one penalty for the rich, another for the poor; one for the slave, another for the freeman; one for the noble, another for the commoner. Crimes which were known to the law were said to be ordinary; but the judges could add to the list others which were extraordinary and unprovided for, in the punishment of which they had large discretionary powers.

"At last the world became weary of shedding blood. It was not possible, in view of the growth of human knowledge, the progress of invention, and increased facilities for travel, to say nothing of the multiplication of books and newspapers, that the atrocities of former generations should longer be regarded with popular indifference."[1]

5. *Decadence of Capital Punishment.*—The evolution of civilization does not have a better illustration than the swift passing of atrocities, such as are mentioned above. It would appear to the student of the development of humane government, that the farther we are removed from the atavistic stage in our national life the farther we withdraw from the cruelties practiced by the savages. This is due to the fact that public conscience, enlightened by Christian principles, shudders at inhuman practices, and the severest measures did not tend to deter crime, but that crime thrived upon them.

6. *Marks of Decadence.*—The death penalty is contrary to every principle deduced from modern penology, and its rapid decline predicts its abolition. Four states abolished it between the years 1847 and 1876, and eight other states followed suit between 1907 and 1917, so that at present there are twelve states which do not have any form of the death penalty. A similar improvement has been made in the reduction of penalties for which capital punishment may be inflicted. The colonies had as many as twelve; but the

[1] *Punishment and Reformation,* p. 105.

largest number in any state at present is six; while twelve states have reduced the number to one single offense, namely, murder in the first degree. Out of the thirty-six states which retain the death penalty, twenty-four permit the court to substitute for it imprisonment for life. Another sign of growing sentiment against it is that the more cruel forms of extirpation have been entirely abolished and more humane and painless methods, such as electrocution, have replaced them. The only forms of capital punishment employed in the civilized world today are hanging, electrocution, shooting, and the newly devised lethal gas absurdity of Nevada. Shooting is still employed in Utah. The extreme penalty is prescribed for first degree murder, rape, and in some rare instances, arson. There is also a revulsion of sentiment against spectacular exhibitions of public executions, and they are now conducted with a minimum of publicity.

The fact that punishment is still administered according to the crime, rather than the actual needs of the criminal, is evidence that we are still laboring, to some extent, under traditional theories and sentiments of the retaliative period; but our recent development of the juvenile court system, probation, psychological diagnosis, the reformatory and parole, indicates that we have made considerable progress in our penological evolution, which presages the abolition of the death penalty.

7. *Why the Death Penalty Survives.*—When an atrocious crime is committed in a community, the savage instinct spontaneously asserts itself in demanding "an eye for an eye and a tooth for a tooth." A common emotional impulse stirs public indignation, which nothing can satisfy but its maximum expression—Death. The mob spirit is emotional and instinctive. The farther the mob is removed from the individual, the more is calm deliberation repressed, and greater is the latitude given to atavistic in-

stincts. How often have the law-makers of our various states calmly deliberated upon the wisdom of repealing the death sentence, almost to a successful issue, when suddenly some atrocious murder converted their emotions into the mob spirit and they failed to act. Public indignation is so rampant in some communities because of a dastardly crime, that it is next to impossible to find a jury capable of rendering an unbiased verdict. In such cases the numerous safeguards of court procedure do not always suffice to assure an impartial trial.

8. *The Death Penalty as a Deterrent.*—The most common argument urged for the continuation of the extreme penalty is that it is the best means of intimidating criminals from commtiting capital offenses. If this were true, little could be said against it, for by some means, heroic or humane, crime must be checked.

9. *The Theory Stated.*—In recent years much study has been devoted to the deterrent effect of capital punishment, because it is pretty generally conceded that if it does not intimidate other criminals from committing murder, there can be no possible excuse for its continuance. It cannot be justified on grounds of reformation of the criminal because he does not survive to demonstrate its influence by his future deportment. Its only effect can be upon the living. Therefore advocates of the extreme penalty base their arguments upon the ground of public necessity. "If we would abolish it," they say, "there would be an increase of capital crimes, and society must be protected."

10. *The Criminal Mind Not Contemplative.*—The popular demand for the death penalty is based upon the assumption that the most cherished possession of a man is his life, and before he commits a murder he will stop and meditate for fear he will precipitate the wrath of an outraged public upon his own head. This is a theory which has never been proved to be true; but since it is so deeply ingrafted in

human thought, due to the many centuries of adherence to the retributive view, it is commonly accepted as an axiom. The fallacy is a very natural conclusion for a law-abiding citizen, who in the even temper of deliberate thought, places himself in the position of the criminal; but it must be remembered that the criminal thinks differently from the well-behaved citizen. His training has been different; he is emotionally unstable, often being incapable of measuring the consequences of his actions; is sometimes psychopathic or perhaps swayed by an obsession of emotional energy which occupies his intelligence to such an extent, that he is blinded to future consequences. Many, many times I have heard the condemned criminal remorsefully say, "I didn't know what I was doing, I seem to have been beside myself." His thought was so occupied in getting what he wanted, that he failed to weigh the consequences.

11. *The Crime Line.*—To what extent drastic measures deter rational persons from crime will never be known; but we cannot deny that there is a certain amount of the deterrent element in punishment, which repels some from anti-social behavior. There is a line of demarkation somewhere between the criminal disposition and the character of the law-abiding citizen, which may be called the "crime line." Some are hopelessly beneath this line on the side of crime, and others in varying degrees up to the dividing line, while others are safely above it, who, because of high integrity, self-respect, and conformity to the demands of the herd will, under no circumstances, descend below it; they need no deterrent. But on the other hand, there are many border lines characters who are held above the line by fear of the law, and by that means, only. These persons are, undoubtedly, susceptible to intimidation through measures adopted by organized society such as arrest, arraignment, conviction and imprisonment, and with this class the severity of the punishment is not so much dreaded as the certainty of punishment.

12. *Criminal Does Not Expect Detection.*—Certain detection and swift conviction would restrain them more than the severest punishment. There are many cases in which the criminal is so desperate as to be oblivious to consequences. When the average criminal does weigh the possible punishment, he is deceived to think that he will be shrewd enough to escape detection, and if caught, he can escape punishment through some loop hole in the legal process. Thomas Speed Mosby says:—"From a personal study of 3,500 cases, including a number of condemned murderers, I am convinced that most crimes are committed by persons who either (1) expect to evade detection and escape all punishment, or (2) who, upon the spur of the moment, are regardless of all punishment, or (3) who are governed by one or more cosmic social and individual factors which the utmost rigor cannot remove, and which render the prospect or possibility of punishment wholly inoperative at the time of the commission of the crime." [1]

13. *Experience Does Not Show That Capital Punishment Is a Deterrent.*—No one has been able to show by statistics that capital punishment is a deterrent. In those states where capital punishment has been abolished, homicides are no more prevalent than while it was in effect, and no greater than in those states still practicing it. It must be admitted, however, that on account of inadequate statistics, different conditions and changing standards of convictions, as well as diverse methods employed in the different states, and in the same state at different times, the comparison is difficult to make conclusively. Dr. Raymond T. Bye, in "Capital Punishment in the United States," with somewhat meager available statistics, was able to prove rather convincingly that there had been no increase of capital offenses in those states abolishing the death penalty; in fact, it seemed ap-

[1] *Causes and Cure of Crime*, p. 252.

parent that in most cases there was really a decrease. He also made a point that those states which abolished the death penalty did not suffer a greater tendency of homicides per 10,000 citizens than the states still employing the penalty. After presenting a very formidable array of statistics, he says:—"These two sets of statistics, gathered from entirely independent sources and corroborating one another as they do, justify a tentative conclusion. They have failed to show any connection whatever between capital punishment and the extent of homicide. It would appear then (1) that the death penalty has no greater deterrent influence than life imprisonment (which is the penalty substituted for it in those states which have abolished it), or (2) that its influence is so small as to be negligible, or (3) that deliberate murders form so small proportion of the total homicides committed in this country that they do not influence the homicide rate. If the last conclusion is the true one, then the occasion for the use of the death penalty today must be so rare that society can safely dispense with it without fear. If either of the other two conclusions is the true one, there appears to be no further excuse for the existence of the death penalty, unless it be considered defensible as a measure of retributive justice."[1]

Edwin H. Sutherland says:—"The number of homicides per 100,000 population in states of the registration era in 1920 was 7.3 in states that had the death penalty, 3.8 in states that had abolished the death penalty. This comparison, however, is evidently unfair because the death penalty has been retained in all of the southern states, which have the highest homicide rates . . . the number of homicides is somewhat less in the states without capital punishment, but the significant difference is not between the states that have capital punishment and those that do not, but between the different sections of the country, regardless

[1] *Capital Punishment in the United States,* pp. 46-47.

of whether the states have or do not have capital punishment."

14. *Public Executions Not Effective.*—The decadence of executions, open to the public, seems to indicate that society is not very sincere in its theory that capital punishment is a deterrent. A few years ago a jailer in the city of Chicago began the practice of making an exhibition of his executions before the prison population for the purpose of its "salutary" influence upon them. When the time for the execution came the prison body composed the larger portion of the spectators. On account of the fear of the public that such an exhibition would have a disastrous effect upon these unstable characters, the authorities forbade the practice. Now, that is just the point; if public executions have such a wholesome educational value why not make them public? Let the ladies bring their knitting, the family bring their lunch and make a picnic occasion of it, as in the horrible guillotine days of the French revolution. Let the teachers bring their pupils and the Sunday Schools their classes of future citizens, and impart to them the impressive lesson conveyed by seeing a human life snuffed out by the people. If such practice is educational and a deterrent, let the people young and old have the benefit of it.

15. *Brutalizes the People.*—But strange to say, we are not so consistent. The witnesses to an execution are limited to the necessary officers, five or six official witnesses, the physician and a small group of newspaper reporters.

The example of public execution, given wide publicity through the press, was found to have an exceedingly bad influence upon society, sometimes resulting in epidemics of crime. On account of this influence, the ban has been placed upon public executions and they are now conducted in a private manner with the crowds excluded. The old

[1] *Criminology,* p. 368. J. B. Lippincott and Co., Publishers.

time gruesome events in which despised criminals were executed before gaping crowds of coarse humanity were found to result disastrously. These crowds looked upon the occasion as a diversion, while their suggestible minds received a stimulus to cruelty which often bore its despicable harvest of crime. As a result, the practice had to be discontinued. Dr. Bye calls attention to the following convincing incidents: "J. M. Moir cites a report by the Massachusetts Legislature (1846) to the effect that following the execution of a man for arson in that state so many repetitions of this offense were observed that an investigation was made, which disclosed the fact that all of the culprits had witnessed the last execution. Edward Livingston mentions the case of a man, who having just witnessed the execution of the murderer Lechler at Lancaster, Pennsylvania, committed a murder on the same day of that event, while the execution itself was the scene of much rioting, pocket-picking, and other lawlessness." [1]

It is pretty generally conceded now that capital punishment is brutalizing to those who are compelled to administer it. For instance the state of Utah compels the sheriff of the condemning county to secure five riflemen and supervise the shooting, inside the walls of the Utah State Prison. The victim is strapped to a chair, which is placed across a driveway against a stone wall; a target is placed over the man's heart and the riflemen, upon a signal, fire through holes in a canvas screen. To somewhat ease the conscience of the riflemen, one of the cartridges is blank. Each rifleman can imagine that he fired the blank cartridge. The same principle is employed in Ohio in administering electrocution. Four switches are thrown by four men. One switch is on the live wire and all the other switches are dead. No one knows who really sends the current through the body of the person electrocuted.

[1] *Capital Punishment in the United States.*

In one well known institution where electrocution is administered, the death chair is located in a room immediately above the chapel. What asinine motive ever impelled its location there is beyond our realm of thinking. It is impossible to secure the attendance of a large portion of the more sensitive prisoners at divine worship without compulsion. They say, "the building is used as a place of worship on Sunday, and a slaughter house on Monday." Probably the ones who might be most benefitted by the gospel services are kept away by their qualms. On the day of an execution in that institution, it always seems as if a storm were brewing—the entire population is disconsolate, and there is a very noticeable increase in breaches of conduct. Executions should never be administered in a penal institution.

16. *The Mistakes of Jurisprudence.*—Since human justice is never perfect, it follows that there is great chance that the innocent may sometimes be executed by mistake. There have been numerous cases where errors have been discovered after the execution had taken place. Amends can never be made after the victim is dead. In France, Germany, Norway, Sweden, Portugal and some other countries, provision is made for indemnities by way of restitution to a person wrongly punished by the courts, which is a tacit admission that the courts are liable to err; but no amount of money can atone for a life of an innocent person erroneously executed, and the person who has been executed can never partake of its benefits. After an execution has been consummated, the decree can never be recalled. It is tragical that modern civilization would permit the destruction of any human life, upon any degree of circumstantial evidence or the erratic findings of some of our courts.

In a volume of 523 pages by Erich Sello entitled "Die Irrtumer der Strafjustiz und ihre Ursachen"—"The Mis-

takes of Jurisprudence and Their Causes"—is an immense collection of errors of the courts of Europe in the administration of the death penalty. In some cases the court condemned to death persons who were insane; in others the witnesses rendered false testimony to shield themselves or to gratify revenge; in others the medical post-mortem was superficial and the advice of experts was misleading. In some cases the conviction was based upon the resemblance of handwriting together with the bad reputation of the offender; in others malice was affirmed when the homicide was really in self-defense. There were cases of mistaken identity and many other errors, which were not discovered until the supposed malefactors were beyond the reach of justice. The late Professor C. R. Henderson of Chicago University once said: "A great state cannot afford to be mean and unjust when its honor is at stake with its own citizens."

Raymond T. Bye, after citing numerous cases of innocent persons who have been convicted and executed, writes as follows: "Even where a conviction has been obtained on the basis of a confession from the accused himself, there is a possibility of error. Incredible as it may seem, a person may confess to a crime of which he is innocent, particularly if he is one of weak will or easily suggestible nature. He may make a confession in hope of escaping the extreme penalty of the law. Third degree methods may have so broken down his spirit that he is led to admit the deed. Or, if he is of certain type of mind, especially bordering on feeble mentality, the power of suggestion and other influences actually may lead him to believe that he has committed the offense charged against him. Modern psychology has shown that such a thing is by no means impossible. Finally, a confession may be made to shield the true guilty persons. I have been told of a case in Ohio, a generation ago, of a young man hanged for murder, who

on the gallows held up his hands to the sky and declared in the sight of heaven that they were innocent of human blood, that he knew the true guilty person but could not reveal it, and that his innocence would some day come to light. His own mother eventually admitted that she had committed the deed. The son had died to shield her."[1]

17. *Insane Persons Executed.*—Since it is a fact that many people sentenced to prison for crime are later found to be insane, there are, no doubt, some who are sentenced to death who are insane. There is today a well-founded popular abhorrence against executing the sentence of death upon a person who is really sick or insane, and this abhorrence is founded upon the finer sensibilities of a civilized people. There is the sentiment, also, that the death penalty should be carried out while the criminal is in possession of his senses so that he will have a full realization of the punishment intended. There have been numerous cases in which it was administered while the victims were in a state of psychosis, due to their imprisonment and the knowledge of their impending doom. The whole proceeding is a heartless, cruel, meaningless custom from which a more refined civilization than ours will revolt, just as we do today, when we review the superstitious savagery of those who burned innocent and helpless old ladies as witches.

We must remember that Christian nations up to a very recent period attributed insanity to the possession of demons and that multitudes of the unfortunate insane were burned at the stake and subjected to every kind of brutality, the same as criminals. In spite of these hideous cruelties people continued to become insane. Finally, a great physician in France, namely, Pinel, astounded the world by declaring that insanity is a disease, and boldly standing out for his convictions, was able to deliver the unfortunates who were imprisoned for madness; and some of them regained

[1] *Capital Punishment in the United States,* pp. 81-82.

their reason. The world had learned the truth; and the era of scientific treatment of the insane had dawned. Let us here add that the majority of victims, punished by death today, are suffering from some temporary or permanent mental ailment kindred to insanity; and then prophesy that the world will some day shudder as much because of our present insane killing of the criminal as we are appalled at the ignorance displayed by our forebears in killing madmen who were supposed to be possessed with demons.

18. *Capital Punishment Seldom Administered.*—The tragic fact must be faced, that if the death penalty is a real deterrent, it is so seldom administered that its influence is largely dissipated. The number of homicides in the United States, annually, is estimated at an average of about 8,000; but there are only about 100 executions each year. This means that only one in eighty who commit murder are executed. It would seem that this proportion would scarcely have the desired deterrent effect. It must be remembered, however, that not all of the homicides could be classed as first degree murder. It does mean that many of the murderers slipped through the meshes of the police and the courts. They evaded detection; escaped arrest; were not prosecuted because of insufficient evidence; were declared insane; dismissed by the court; were not convicted or were found guilty of some milder crime, such as second degree murder or manslaughter. Suppose that one-fourth of these cases were actually guilty of premeditated murder. That would still mean that only one out of twenty were punished according to the method society has adopted. If perchance a prospective murderer should be deliberate enough to calculate upon his chances to escape capital punishment, he would also probably be enough of a gambler to risk his life on a one to twenty bet. If a true test of the efficiency of the death penalty as a deterrent is to be had, it should be administered more uniformly. If this cannot be done,

a sentence should be substituted for it which can be administered.

Lewis E. Lawes, Warden of Sing Sing, has recently written the most convincing argument against capital punishment that has ever been presented. His chief contention is that the death penalty does not deter capital crime any more than whole life imprisonment; and he proved his point very conclusively by a very convincing array of statistics gathered from every possible source. He says:—

"My own conviction against capital punishment is based upon personal experience of twenty years, upon contact with hundreds of murderers whom I have known and with whom I have talked in very solemn moments, upon close observation of what we choose to call 'legal execution.' I have seen many men die in the electric chair. . . . I alone determine the exact moment when the life shall be extinguished. I always wonder afterward whether the world is any better off; whether what has been done in the name of the law is consistent with the spirit of religion, consistent with the right progress of civilization."[1]

19. *Absolute Life Imprisonment as a Substitute.*—When we regard the death penalty as the greatest deterrent to crime we base our assumption upon the premise that death is more to be dreaded than life imprisonment. The assumption is in error, if we mean absolute life. How often do we hear of cases where the murderer in his desperation turns the gun on himself and takes his own life, and how often do wardens have to protect convicted criminals against self-destruction.

Mr. Lawes presents a substitute for capital punishment which, without doubt, will some day be accepted, at least in part by every civilized nation:

"Upon conviction of murder in the first degree, the defendant shall be sentenced to *life imprisonment.*

[1] *Man's Judgment of Death,* p. 60.

"Prisoners serving life sentences shall receive no time allowance for commutation or compensation until commuted to a definite term.

"No prisoner serving a life sentence shall be pardoned or commuted by the Governor until he has served at least twenty years' actual time *unless* the Court of Appeals shall make an order or decree in which the majority of its members must concur, to the effect that: (a) Evidence which was not known at the time of the trial or which was not presented to the court or jury creates a probable doubt of the guilt of the accused, or (b) Facts or circumstances exist which in the opinion of the Court make a case for executive clemency consideration.

"After a prisoner shall have served twenty years' actual time he shall be eligible for pardon or for commutation to a lesser term than life, and if commuted to a definite term of years, may thereafter earn commutation and compensation. . . .

"A substantial percentage of the earnings of the prisoner shall be applied to the support of his dependents and to the support of the dependents of the person killed, to be apportioned in the discretion of the Superintendent of Prisons."[1]

In another connection he says: "So far as the control of these prisoners in the prison is concerned, I believe that nearly all wardens are united in agreeing that as a group they constitute the most reliable and dependable men in the institution. In a great majority of cases the murderer is not a criminal in his nature as we ordinarily understand this term. Given places of trust and responsibility, as they often are, these men invariably make good.

"During five recent consecutive years, 180 inmates of Sing Sing who had been convicted for various degrees of homicide, were paroled after serving the minimum terms of

[1] *Man's Judgment of Death,* pp. 28-29.

their sentences. Of these 180 men only three were brought back for violation of parole, and in these three cases the violations were minor ones and the men were compelled to serve only a few additional months. This is truly a remarkable record. During the past twenty years I have personally known a great many men who have been commuted from death to life imprisonment. There is a considerable group in Sing Sing today, and without exception they are quiet, dependable, trustworthy. Many are in places of responsibility and except for that one deed they are in every way fitted and worthy to be normal and useful members of society."[1]

20. *Influence upon the Family of the Victim.*—By the electrocution of a murderer, one criminal is eliminated. He will commit no more crime; but what about his relatives and loved ones? Does society blind its eyes to the deplorable influence upon the children of the man whose life is suddenly snuffed out to satisfy the rage of the public? I have often wondered whether the deterrent effect of an execution will overbalance the evil effects upon the rising generation. In many cases, a wife is left a widow and several children are rendered orphans. If they are dependent, society must shoulder the burden of their support. A lifetime stigma is upon them and their chances for good citizenship are correspondingly lessened.

I recently witnessed a touching incident which raised the above questions in my mind. A father of seven children, ranging in age from seven months to twelve years, was awaiting electrocution when his family visited him just before the fatal day. The mother, carrying the youngest child in her arms, slowly and sadly wended her way across the prison yard, followed by the rest of the children.

Here and there prisoners passed her with averted heads. These outcasts of society were not calloused enough to look

[1] *Man's Judgment of Death*, pp. 49-51.

into the sorrow-filled eyes of society's victim—for victim she was.

When she arrived at the massive iron door of the death house, her steps faltered and she stood there sobbing, while she tenderly clasped the little one to her bosom and cast her eyes wearily over the six little white faces which portrayed bewilderment and fear. What misery she suffered during that sad moment, will never be known. She was finally ushered into the office by a blue-clad official and then up the long winding stairs of the house of death, into the presence of her husband. She was permitted to stand within five feet of the condemned man, who during the visit, was locked within a heavy wire cage. Across this space a man and wife spoke their last words. There was no chance for a farewell kiss; there was no chance for them to even touch one another—just to stand and suffer, with now and then a word of love. The little one cooed at the strangeness, and now and then fixed its baby eyes upon the cage in which its troubled father moaned in misery. As the guards started to lead the woman out, she tried to speak but failed and held the baby out toward its father. The man in the cage pressed his face against the wire meshing and from the depth of his soul came a long-drawn groan of misery. She was still holding the little one out at arm's length when the guards closed the heavy iron door that clanged mockingly in the unnatural stillness.

The rest of the family were led, one by one, to the condemned man's chamber, where they stood for a few moments and gazed at their father, and then were led out, until finally the heavy door closed on the last, abruptly ending what society calls a privilege.

It was sometime before the poor mother was able to collect sufficient strength to leave the office, and when she did so it was with the help of the officials. The family filed out of the charnel house with heavy steps and slowly started

away—all but one. A little fellow about six years of age stopped just outside of the barred door and with his little shoulders shaking with grief, remained behind to be near the one he loved so tenderly, yet could not help. As the party moved onward and the little fellow stood alone in his grief, scores of eyes watched from the windows of the big block in which the convicts were confined.

The officials had proceeded about thirty yards with the visiting party when they missed the youngster. They tarried while the guard returned to get him. Words could not move him, so the guard unclasped his fingers from the strong bars, took his little hand in his and with very slow steps led him away. Just as he was about to turn the corner of a building that would shut out the view of the death house, he stopped and took one last look at the place in which he knew his father to be. If society as a whole could have had a glimpse of the misery and sorrow that filled the eyes of this little grief-stricken man as he took the last, lingering look, his father would not have been electrocuted. Three days later the cruel and ignorant law compelled the father of this large family to be ruthlessly dragged from his cell and burnt to death in a wooden griddle. He died protesting his innocence, and hurled invectives at all who had anything to do with his death. He was cursing when they put the mask over his pain-twisted face; he was still cursing when the electric current cut off his breath.

What attitude will the seven children of this man show to the laws of society when they become men and women? Will society ever be able to convince them that the legalized murder of their father was a benefit to mankind? Will these little people ever forgive the savage law of the land for taking their father from them in such a barbarous manner? They will forever hold the state guilty for the curse thus placed upon their lives. The beneficent influence of church and school will never entirely obliterate the stigma

and it will be difficult to make patriots of them while the knowledge of the state's brutality rankles in their memory. If the heartlessness of capital punishment could be brought home to society with the same force as it is to the lives of its victims it would speedily be abolished. The real victims are the sisters, mothers, wives and children. They suffer more than the criminals. All the electric chairs, and scaffolds, and lethal gas chambers in America combined, never gave their quarry the agony which is endured by the mother of one wayward son who is executed.

21. *Summary.*—Reviewing all the above facts in the light of history and reason, we must arrive at the conclusion that the death penalty is a mere remnant holding over from the days when the most atrocious crimes were perpetrated by the herd in the name of retributive justice. It is difficult today to secure twelve men so callous as to sit on the jury where a life is in jeopardy, and it is often argued that many guilty murderers have been acquitted, because their juries were conscientiously opposed to the death penalty. One fact stands out in letters of gold, the public is becoming more and more disgusted in filling the rôle of legal murderer, and soon there will not be a commonwealth which will permit it. The death penalty is contrary to every principle of modern penology which is engrossing public sentiment more and more, as we grasp the principles of the new psychology, modern methods of reform and the teachings of twentieth century Christianity.

CHAPTER XVII

PROBATION OR JAIL?

1. *Origin of Probation.*—The idea of a suspended sentence and another chance for the first offender is of comparatively recent origin. It is one of the mile posts in our progress toward the individualization of treatment. From a legal standpoint it is based upon the right of the court to suspend sentence; and while there are some reasons why probation should be regarded as a sentence in itself, the courts almost universally, wherever probation is employed, either suspend the imposition of the sentence, or impose the sentence and suspend its execution with some kind of requirements and restrictions of the probationer as to future deportment. The first instances of the suspended sentence seem to have been in Boston as early as 1849, but it was not practiced to any great extent. It was employed chiefly in behalf of drunkards for whom some friend was willing to act as surety that they would keep sober and would not again violate the law.

In 1878 Massachusetts enacted a law authorizing the municipal court to extend probation to offenders and enabling the Mayor of Boston to employ a probation officer. In 1880 this authority was extended to other cities of the state. Massachusetts was the only state authorizing probation until 1899; but before 1917 every state in the Union, the District of Columbia, Alaska, Hawaii and Porto Rico had adopted it.[1] The popularity of the new attitude toward juvenile offenders and the growing success of the juvenile

[1] *Criminology,* Edwin H. Sutherland, p. 562. J. B. Lippincott Co., Philadelphia.

court system are largely responsible for the present general use of probation for adults. The efficiency of the system is practically annulled, however, in some states by the failure to provide probation officers.

2. *Probation Used as a Substitute for Prisons.*—The deplorable evils of many of our prisons and most of our jails are beginning to be recognized. Their contaminating influence can be obviated, according to some writers, only by refusing to imprison men and women in them. It is the consensus of opinion that wherever expert methods of institutional correction do not exist, probation should be used as a substitute, if the ends of justice can be conserved by so doing. There have been various exposes of jail conditions in many rural and urban districts in the United States with the result that jail imprisonment has been severely censured. The same criticism can be urged against work-houses and various state prisons.

A. *Examples of New York Jails.* — The New York State Commission of Prisons a few years ago presented a scathing rebuke to the people of that state because of deplorable jail conditions, and recommended probation as a substitute for jail imprisonment.

Their report says:—"Jail life tends to contaminate and debase prisoners, while probation surrounds them with wholesome and healthy influences. Probation is often beneficial to adults but it is of still greater advantage to the young: and, nearly half of the entire jail population of the state are thirty years of age and under. Many persons are committed to jail for slight intoxication and for other trifling offenses just long enough to lose their jobs. This results in bringing upon their dependents and upon themselves want and hunger, which probation would have avoided. The inactivity, impure air and insufficient nourishment of jail life reduce a prisoner's vitality, and

render him unable to resume labor after discharged. Weakened, discouraged and unfit to obtain employment because of his physical condition, he again takes to drink, and the endless chain of re-arrest and commitment begins and goes on interminably. From the taxpayer's standpoint, probation may well be endorsed and commended as it saves the counties the expense of maintaining many prisoners in jails and workhouses in idleness, and also avoids the burden of maintaining their families while they are thus imprisoned."

In absence of probation there is practically no alternative except to send an offender to jail. The prison commission above quoted mentions the cases of two young men, one a *consumptive* and the other *a youth in search of work,* who were sent to jail for long periods. One of the most debasing methods ever practiced by courts, is to sentence drunkards to a few days to jail to sober up, where they have their whole time to loaf, gamble, curse, and corrupt others of their kind, shortly to go out embittered and hardened, to repeat the offense time and again.

B. *Jails of Kansas.*—Warden J. K. Codding, in a paper presented to the Kansas Conference of Charities and Correction, a few years ago, stated that there were 6,218 men and women confined in the jails of Kansas, which jails the warden characterized as the worst in the world. The sentences served by these persons in one year were equivalent to 343½ years for one person. A man who had had considerable experience in and around jails, commenting on this "Time in prison" said: "That means 343½ years devoted to smoking cigarettes and playing poker with matches for stakes during the day, and killing bed bugs at night." "These jails," added the warden, "which are maintained upon a wasteful and extravagant plan are making criminals, are crime breeders, the destroyers of young man-

hood." The short jail sentence blights more characters by far than it saves. Many a young man has become confirmed in habits of drunkenness and vagrancy by this unscientific method of treatment in his periods of debauchery.

C. *The Jails of Maryland.*—Some years ago it fell to the lot of the author to inspect the county jails of the state of Maryland, at which time the condition of these institutions was so bad that he came to the conclusion that no prison at all would be better than any of them, and that probation should be substituted for imprisonment in such places wherever possible. Most of the jails were dingy, filthy, and bug-infested. They were conducive to disease, degradation and pollution of the minds and bodies of men who were held within their confines. The dejected-looking inmates sat indolently around, with no occupation except to smoke, chew, gamble and tell filthy stories or educate one another in crime. Arriving at one of the worst of these ignominious pest-holes about nine o'clock one Fourth of July evening, he found the men and women huddled together in the men's corridor gazing through the windows at the fireworks, and he learned that the women had access to the men's quarters at will. There was, of course, a like promiscuity in the association of all classes, young and old, white and black, which was pregnant with degeneration of morals of the first offender and the innocent awaiting trial.

D. *The Condition Is General.*—Dr. Hasting H. Hart in his report as chairman of the "committee on treatment of persons awaiting court action and misdemeanant prisoners" at the Jacksonville Congress of the American Prison Association, said:—"There is an extraordinary paradox in the conditions of the county jail: given the same building, the same room, the same surroundings, the same food, the problem is to make the confinement for one inmate a humane and easy detention, and for the other a severe

and bitter punishment. You say it cannot be done; but it is done every day in the county jails throughout America. The trouble is that we give the humane and easy detention to the wrong prisoner, and we give the severe and bitter punishment to the wrong prisoner. The tramp, the vagabond, the petty thief does not mind bad air, filthy floors, or even verminous bedding. Give him, in winter, a warm room, plenty of food, a pack of old greasy cards and the society of others like himself, and he is entirely happy. He may even steal to get back into these comfortable conditions. But take a man of cleanly, decent habits, with some remnants of self-respect. Confine him in a steel cage where he is exhibited like a wild beast in a menagerie; give him no change of underclothing (as in the Cook County Jail in Chicago; and the New Haven Jail in 1917); lock him up from dark until daylight with five other prisoners in a cell 6½ x 10 feet; compel him to listen day and night to the vilest language in the thief's dialect, and to associate in idleness with the worst criminals in the county. Can you conceive of a worse punishment for a fairly decent man this side of perdition? Yet this is the prisoner who is entitled to humane and comfortable detention."

Dr. J. T. Gilmore, late warden of Central Prison, Canada, once said "that with our existing jail system, twenty-four hours' imprisonment suffices, under certain circumstances, to ruin a man. I do not exaggerate. I say what I have seen. The prisoner meets a corrupt recidivist; they appoint a rendezvous outside and that man is lost."

The monotony and purposeless life in jail is ruinous. You will seldom find a jail with a library supplying wholesome and cultural reading. If there is any reading matter supplied, it usually consists of daily papers, light trashy novels, or donated books with no regard to the needs of the prisoners. The dietary is seldom given scientific attention. Many prisoners are anaemic, dissipated, and below the nor-

mal in health. Future health and conduct may depend to a large extent upon the nourishment they receive at this critical time. It is criminal upon the part of a community to commit to such a purposeless existence those unfortunate characters, who are thus rendered more susceptible to crime, because of under-nourishment and weakened resistance to temptation.

3. *Substitution of the Penal Farm Not Adequate.*—Those who have advocated the abolition of prisons do not mean that all classes of prisoners can be properly treated by means of probation. Wherever probation is used, there must be the background of some kind of imprisonment in case the conditions of suspended sentence are violated. There are many criminals who would not respect probation; and it is a question as to how many of any class would respect it if there were no threatened punishment for violations. In another place we have referred to the many penal farms which have been established in various parts of the United States and in other countries. They are not adapted, as managed and equipped at present, to care for some of the worst classes of prisoners; neither can such cases be placed on probation with safety to the public. Yet there are many cases committed to penal farms who would respond to probationary treatment. The tendency of probation, wherever it is used wisely and to any great extent, is to reduce the population of the prisons leaving a residue comprising the more difficult cases.

4. *The Court and Individual Treatment.*—Under our present punitive system it devolves upon the court to decide in each case the influence such clemency will have upon the public as well as upon the probationer. The judge is obliged to decide, before sentencing a hopeful young man to an institution, whether the offender is likely to become better or worse by such treatment. As this procedure is practiced, more or less attention must be given to the character

and mentality of the offender and the environment in which he lives. The judge begins to divorce his court from the iron clad customs of retaliation and studies the sociological and psychological implications of his decisions. This fact marks probation as one of the most advanced steps toward the individualization of treatment.

5. *Character of Cases in Which Probation Is Used.*—It is generally conceded that probation should be extended to first offenders only, except in rare instances, where extenuating circumstances render the offenses more or less accidental in character. When the public is especially aggravated or horrified by a crime, public opinion revolts at probation. However, it has sometimes proved quite successful as a method of treatment for major offenders. The following is an exceptional case in which probation was used in the penalty for murder:

A few years ago in a small city in one of our most progressive states, two gentlemen lived side by side, both of whom were fathers of splendid families. These men had been close friends from childhood and their families were very intimate. They visited back and forth, went on outings together and had little to mar their friendship. One day they were in their back yards talking across the partition fence, when on account of some thoughtless words on the part of one of them, they became involved in a violent quarrel. They waxed more and more abusive until finally one of them went into his house, secured his gun and shot his neighbor, killing him instantly. Public opinion was very bitter against the murderer who had probably never committed another crime.

When the case came to trial, the slayer acknowledged his guilt and did not contest the case in any manner. The judge did what was afterward regarded as a very wise act. He sentenced the man to the penitentiary for life and suspended sentence indefinitely on condition that the offender return

to his home and support not only his own family, but also the family of his victim which he had rendered dependent, until the children were grown and no longer in need of his assistance. This he did with the greatest of faithfulness and thus partly atoned for his crime.

We acknowledge that this incident is an extreme case. It is not cited as an argument for probation for major offenders, but rather to show that probation, like all other sentences and subsequent treatment, should be measured more by the character of the offender and his real needs than by the nature of his offense.

Many first offenders found guilty of larceny have been released on suspended sentence on condition that they work faithfully and restore the amounts stolen to the victims of the crime. This method has proved very successful in reforming young offenders and has saved the state a great deal of money by avoiding the necessity of their support in a penal institution. This method is a far cry from the cruel rack, plet, cat-o-nine-tails, drawing and quartering, dungeons, filth and venom of a century ago or even from the lock-step, stripes and silence of yesterday, but who is there left to say it is not more in keeping with a Christian civilization, and who will deny its superior effectiveness in curing crime?

6. *Methods of Selection of Probationers.*—Grave blunders are often committed in the name of the law, which can never be corrected. We have shown in Chapter XV that the court would function much more judiciously if it maintained a department of diagnosis to determine social facts, psychiatric conditions and causative elements entering into the commission of the crime. A thorough biographical investigation is necessary before the court can intelligently determine the advisability of releasing an offender on probation. A trained social worker, acting as a court representative, interviews the prisoner, his relatives and acquaint-

ances, and learns every etiological factor he can discover. This investigation also either verifies or refutes statements of the offender which bear upon the advisability of probationary treatment.

Special experts should be employed to conduct these investigations. The probation officer is not usually qualified to go deeply into conditions of health, mentality, and other personal, legal and social factors upon which the advisability of probation depends. This is in the field of diagnosis. The officer occupies his time in supervision, using the findings of the diagnosticians as effectively as possible. The probation officer should not meddle with the case until actual treatment begins. Otherwise he is liable to be regarded as a detective, rather than as a faithful, helpful friend.

The selection of a probationer depends largely upon his mental attitude. Frankness upon his part evidences a tendency to tractability. If he is truthful in his statement before the court, and especially, if he makes a straightforward confession of his guilt, he is more likely to yield himself readily to corrective measures employed in his behalf. Some courts take the position that no criminal should be placed on probation who is manifestly guilty, but who persistently insists that he is innocent. A term of probation starting with deception is not likely to be successful. The most pronounced evidence of degeneracy is still operative in his character, which must be eliminated before he will be a good subject for clemency and trust.

7. *Character and Ability of the Probation Officer.*—The probation officer to do a genuinely constructive job, must be a person of tact, education and experience; because probation is a process of educational guidance through friendly supervision. It takes into account all the social, biological, and personal factors of the offender's life, and summons to its aid every social agency which can be enlisted, to restore the ward to habits of right living and to correct the evils of

his environment. Volunteer probation officers are seldom successful because such expert analysis and constant, painstaking application is demanded as to reduce the business of a probation officer to a skilled profession not possible to the person whose thought is divided. In fact the eminently successful probation officer is born, not made. We, of course, mean that he is a probation officer because his natural aptitudes lead him into that field of labor. He possesses a goodly degree of native ability, keen judgment, knowledge of human nature, indefatigable application, and brotherly interest, and is a person of sterling character.

8. *Wisdom and Resourcefulness in Case Work.*—The following example illustrates the possibilities of helpfulness in case work:—The subject was that of a young man who was arrested and tried on the charge of vagrancy, because he had fallen into a gang of near-criminals who spent their time in questionable resorts and engaged in degenerating habits.

At the trial his widowed mother had been compelled to testify that he did not work and contribute toward her support. The father had been dead for a number of years, and the mother had been working in a candy factory for the pittance of $6.00 per week, supporting the family in a very meager way. The boy's chief difficulty was that he lacked energy and ambition. He had made sporadic attempts to secure work, but because of his untidy appearance and disconsolate attitude was not successful. He was plastic material for any kind of influence, good or bad, that might touch him. The probation officer attended the hearing, and recognizing the boy's great need, offered to find him employment; also, to see that he aided his mother. The prisoner was given a suspended sentence and placed under the guardianship of the officer.

This wise guardian furnished clothing for the boy, cleaned him up, gave him a large quantity of good advice

and secured employment for him at $15.00 per week, which, in those days, was very good pay for one of his ability. He worked diligently and gave perfect satisfaction to his employer. The parole officer called on the family once a week and saw that the young man gave his mother a proportionate part of his earnings and that he spent his leisure time in good environment.

On one of his visits the officer was informed by the mother that the boy was not keeping himself as neat and clean as was demanded of one in his social position. The officer gave him a pressing invitation to visit him at his home. He accepted the invitation and appeared at the officer's residence on the following Sunday morning, where he partook of a very pleasant repast. Discreet questioning revealed that the ward had not bathed for almost a month. The officer gave him soap and towels and showed him the bath tub, insisting that he take a bath. The boy promised to take a bath once a week after that, and there were no further complaints about his tidiness. On the occasion of another visit the officer found that the twin sisters of the probationer were in need of clothing. He soon had them well supplied, and secured a position for one of them. The other was supplied with books and started in a trade school.

These girls, of only fifteen years of age, were going to public dances unattended. The officer told them the dangers involved in this kind of amusement and advised them not to throw themselves in the way of temptation. The officer prescribed a legitimate amount of wholesome recreation and they were required to be accompanied by their brother, who was permitted to use a small portion of his earnings for this purpose. In this manner the confidence of the entire family was won. All members of the family gladly yielded themselves to this new influence that had come into their lives and the entire home was rehabilitated during the probation period. The importance of such assistance and direction

cannot be overestimated. There is little doubt that probation often fails because the subject is compelled to return to an unaltered environment. He has to struggle against the same difficulties he had to face before his arrest, which may have been largely responsible for his delinquency. If his environment enters largely into the causes of his delinquency, it is imperative that he be placed in more wholesome surroundings, or that the quality of his old environment be raised. Every new case operates differently and has new possibilities. The officer must be resourceful enough to meet the novel demands of each case.

9. *Preparation of Probation Officer.* — The probation officer will greatly strengthen his hands by having a thorough working knowledge of various kinds of social service and should enter the work as a life calling. He should receive sufficient compensation to warrant him in making the right kind of preparation. There should be abundant opportunity for promotion, with a corresponding advance in salary as he develops. There should be a chief probation officer to direct the work of the entire department. Most failures of probation in the past can be traced to mistakes in the selection of the subject or the inefficiency of supervision, and not in any sense to a failure of the principle.

10. *The Best Probation Systems.*—The best probation systems now operating in the United States are probably those of New York and Massachusetts which have been highly commended by the American Prison Association, the National Probation Association and other students of social service. Dr. Sutherland says: "The State Probation Commission of New York carries on a campaign for the extension of the probation system, makes investigations of the work of the local probation officers, secures publicity for such reports, and develops standards. The agents of the commission secure monthly reports from all probation officers, and make visits at least once a year to the important proba-

tion offices. It has published a manual for the guidance of probation officers. It holds two conferences annually, one for probation officers and one for the judges of the inferior courts. By such efforts the probation work of the State is being raised to the level of the best methods known." [1]

Massachusetts has an organization similar to that of New York. New probation laws in that state are destined to raise the quality of probation to a high degree of perfection. A unique feature in the Ohio law is the provision that when an offender is placed on probation, he immediately passes from the jurisdiction of the court to that of the management of the Ohio Reformatory; to which institution is delegated the sole authority to terminate probation, to place sentence into effect and to grant final releases. Thus the management of the reformatory is charged with the responsibility of three phases of reformatory work: probation, reformatory education, and parole.

We have said enough on the advanced methods of probation to demonstrate that the transition from imprisonment in unwholesome jails and unscientific prisons to the rehabilitative influences of probation is in strict harmony with the signs of the times for a new type of reconstructive criminology.

[1] *Criminology,* p. 582. J. B. Lippincott Co.

CHAPTER XVIII

PAROLE

1. *Distinguished from Probation.*—Many principles applicable to probation are also true of parole. There is some confusion of the two terms in the minds of many laymen, because they both relate to treatment in free life of persons who have violated the law. Treatment of the offender logically falls into three classes:—(1) That which can be applied before confinement, (2) that which can be applied during confinement and (3) that which can be applied after release. The first method is probation and the third is parole. Parole involves a period of preparatory treatment in the institution and is therefore somewhat more complicated and difficult than probation because it embraces more hardened cases. Theoretically, the best cases have been sifted out in the process of probation. Parole is the conditional release of a person who has actually spent some time in the reformatory.

2. *Origin of Parole.*—The principle of parole developed out of the "ticket of leave," or conditional release system first practiced in Australia. It was adopted as an expedient by the British Government to facilitate the handling of transported prisoners. Commodore Phillip was given the right as governor of the colony to grant a conditional pardon. The lack of any prison structure made it necessary to work the men in gangs; hence arose the system of progressive classification, which was developed in Australia to a high degree of perfection. There were three grades of penal servitude, the highest of which was the "ticket of

leave." By the law of 1847, this privilege was granted only to convicts shipped to Australia; but by the act of 1853, "tickets of leave" were authorized to be granted to convicts confined on English soil. The parole idea in connection with the merit system developed also from the "mark system" introduced by Captain Maconochie of Norfolk Island, a penal colony of New South Wales, which method was used as a means of keeping records of a prisoner's attainments and demeanor. The division of prisoners into grades, and the practice of promoting them from one grade to another, was practiced in Massachusetts as early as 1826. The logical development of this plan made rewards necessary as an incentive. The "ticket of leave" or conditional release was adopted as the highest reward. Sir Walter Crofton in the famous Irish system borrowed the idea in part from Captain Maconochie, providing partial freedom as a test and preparation for unconditional freedom. From the very nature of the grading system, parole was found necessary as an incentive to any successful system of promotion.

3. *Popularity of Parole.*—Thirty-five states of this nation as well as thirty other countries have adopted some form of parole. The laws relating to its use differ greatly. In most countries it is exceptionally granted. In France, it is extended to about 25 percent of all convicts; in Norway to 40 percent and in England to a much greater proportion. In the United States parole is granted as a part of the indeterminate sentence. Wherever the law prescribes a minimum sentence, a prisoner who maintains good conduct in prison is usually paroled at the expiration of his minimum to the expiration of his maximum sentence. There are various restrictions to parole in the different states, such as the requirement that a specified portion of the sentence be served before parole, age limits, the enormity of the offense, guarantee of employment, and other conditions.

The state of West Virginia, for instance, will not permit the parole of a prisoner until he has reached the age of thirty years. The Federal laws will not permit the parole of United States prisoners until one-third of the sentence has been served. The state of Pennsylvania requires that a sponsor be secured who will act as "first friend" and adviser; also that a definite place of residence be determined upon, before the time of parole. Some states require that employment be secured before parole. This requirement is not as much of a safeguard as it is generally supposed to be, for the reason that the prisoner in custody has little opportunity to secure employment, and it is difficult to secure a position in advance for an unknown applicant, particularly, if he has a prison record. This condition is often evaded by some friend or relative offering fictitious employment. The prisoner seldom continues in his first position any great length of time, and the burden of securing employment must then be assumed by the parole officer.

4. *Determining Fitness for Parole.*—The efficacy of the parole system depends to a great extent upon the fitness of the prisoner for a trial in free life. Much has been said in previous chapters about the preparation of the prisoner for this important advent into free life. There is usually a right time and there is often a wrong time. Some should be paroled early because they will be institutionalized or corrupted by long confinement; while there are occasional cases which should never be paroled. The time of release resolves itself into a scientific study of personality. A shrewd estimate of the candidate's mentality and resistance to the antisocial forces with which he will have to cope is essential. Casual examination will not suffice. A single interview, securing a few superficial facts, mostly of a sentimental nature, is a practice which cannot fail to result in many grievous failures. Nothing less than a careful diagnosis,

based upon all the mental and physical factors, determined by the most persistent study of the case, will avail to indicate the prospect of a successful parole. This study includes every etiological factor, development during the period of treatment, attainment in the educational curriculum, and general attitude toward customs and law, that can be gleaned and recorded during imprisonment. It should include a fair knowledge of the environment into which the parolee is to be thrust, as well as a prognosis of his reactions to this environment.

The following is cited as an example of unsound paroling:

M. S., a feeble-minded girl, aged 29, was sent to the Detroit House of Correction, February 28th. She had been on probation once and had served one previous term in the House of Correction. Her charge was bigamy. She was six months pregnant and tested 4 plus Wassermann. On March 23d the Parole Board passed approval on her case. On April 8th she had threatened abortion and was transferred to the Woman's Hospital. She was then sent to the Herman Keifer Hospital (June 5th) and the child was born. She was returned to the House of Correction June 22d. On June 24th she was paroled for a period of one year, effective when the father of the child agreed to marry her and support the child. She was not divorced from her first husband, and the man she was to marry was not one of the two husbands who figured in her case of bigamy.

Another case was that of N. P., a girl whose mental age was 9 7/10 and clearly feeble-minded. She was sent to the Detroit House of Correction, sentenced six months to one year on the charge of adultery on April 11th. She was sent to the hospital July 25th. She was pregnant and had gonorrhea at that time. She was paroled August 2d on a governor's parole—less than six months—on sentimental grounds, to go out and reproduce her own kind.

Unwise objectives for parole such as were practiced in the above cases are responsible for the sentiment in many circles against parole. There should be a reasonable prospect for reformation, based upon conduct, mentality and a favorable environment in which to exercise the parole. Readiness for parole depends not only upon good conduct in the institution, but upon the mental reaction of the prisoner to the good influences that have been thrown about him in prison for his reformation. There comes a time when the patient becomes saturated with these influences and he should at that time be regarded as ripe for trial in the freer life of the community. If he is held beyond this time of moral maturity, it is possible that he will never again be in as good condition to respond to his parole as he was at that psychological moment.

5. *Nature and Value of the Indeterminate Sentence.*— The effectiveness of the parole system is rendered possible by the indeterminate sentence. Without some form of indeterminate sentence, the benefits of parole and the attainment of eligibility for parole would be greatly lessened. The sentence usually designates a minimum and a maximum period of imprisonment. The prisoner must be held in the reformatory at least until the expiration of his minimum sentence, and he must be released upon or before the expiration of his maximum sentence. There is therefore a period between the minimum and maximum terms when the prisoner can be released on trial and during which time constructive efforts can be put forth to prevent the necessity of his return to institutional custody.

The theory of the indeterminate sentence implies a gradual lessening of prison restraints as the character of the patient responds to the treatment, from the strictest custodial care to his final release from parole in free society. The true reformatory supplies means for his improvement, compelling him to earn merits for promotion, and corre-

spondingly increasing privileges, until he is finally moulded to fit naturally into normal life, a reformed man.

The minimum and maximum of the indeterminate sentence have been retained in the laws of most of the states for the following reasons: If the minimum were removed, license would be given to the parole authorities to release before proper punishment were administered. It is also reasoned that to remove the maximum, unwise parole administrators, in some cases, might keep prisoners too long; that it would practically amount to imprisonment for life for comparatively trivial offenses. There is no reason to believe, however, that parole authorities who have a long period of time in which to decide on the eligibility for parole would make any more mistakes than the judge, who is compelled to pronounce sentence within a short time after the conviction, and with much less knowledge of the real needs of the case. They are just as likely to be honest and conscientious in their decisions as the judges and the juries. No one can deny the claim of modern criminologists that proper treatment of the criminal cannot be scientifically administered as long as they are handicapped with time limits. If the prisoner is not looking forward to a definite day and hour when he knows that he must be released, but rather understands that his release will depend largely upon his improvement and attainment, he will readily throw himself into the drift of measures employed for his reformation.

6. *Determining the Time of Parole.*—It is urged that deportment in the institution is not a true gauge of the prisoner's reformation; that some men whose deportment in prison is excellent do very poorly on parole; and on the other hand, some whose deportment is very bad in prison, react favorably to parole. Quite true; but there are many other factors in deciding the time of parole, which also require time to determine. The mental hospital does not determine all of its findings from the co-operation of the

patient; neither does the physician decide when a patient is ready to leave the hospital by the way he takes his medicine, nor by his deportment while in the hospital. However, the deportment and co-operation of the patient is likely to have much to do with his recovery. There is infinitely more good or bad in the personality of a man than can be divined from perfunctory actions and shallow words learned by rote. The paroling authority must measure motives and tendencies, words and actions slipping in unguarded moments; he must interpret seemingly unimportant trivialities, which sometimes speak volumes in the interpretation of character. A proper system of credits and grading is helpful, but they furnish the means rather than the end, for scientific prognosis. If marks and credits are employed, the prisoner should understand that they are not the final and only criterion of his eligibility for parole; however, he must be assured that a certain grade must be attained by him as an index of his co-operation with all the efforts put forth to send him out a better and a wiser man.

The indeterminate sentence should provide adequate time for study of the case. The Massachusetts Parole Board can parole a first offender, serving a sentence in the State Reformatory almost immediately after his commitment, but they allow themselves eleven months to study the case before the prisoner is permitted to appear before them for review. If his credits are not sufficient, or if his character is not improved, they set him back a few months for further study. They have access to a large amount of data concerning the crime, previous record, deportment in the institution, psychological rating, psychiatric diagnosis, etiological factors and other information, all of which is carefully weighed in the consideration of the case. Some other states practice a similar method, which is generally regarded as a sound policy.

7. *The Parole Commission.*—Some states maintain parole boards, some have a single commissioner of parole,

and some place the responsibility of paroling upon the prison management. Any one of these plans is workable, if all the elements relating to the reformation of the prisoner are carefully weighed, and if the paroling agency is capable of rendering unerring discernment. Some boards get into the habit of practically re-trying a case in review, discriminating according to the enormity of the offense, or upon sentimental grounds. Some are unduly influenced by the importunity of relatives and influential friends, which reduces the value of their decisions to the minimum.

One thoughtful student of corrective measures has suggested that the parole board should consist of three persons, as follows: the warden, who is in a position to know the prisoner most intimately and to observe his improvement; a local citizen of keen intelligence, who understands the demands and welfare of the community; and a direct representative of the governor, who would exercise the executive clemency vested in the governor. This authority is sometimes vested in the managing board of the prison within the limits of the indeterminate sentence; as, for instance, the Elmira Reformatory, where the board of managers determine upon all matters of parole. There are some important advantages in this method. No one can know the prisoner better than the officers who are charged with the duty of handling him while in prison, and with a proper system of grading, the time of his eligibility for parole can be easily determined by these authorities. If the parole officers are also a part of the prison staff there is greater uniformity of action and, consequently, a greater degree of success in supervision.

8. *Parole Supervision.*—No parole system is worth much without the constant careful supervision of parole officers. There is no line of social work fraught with greater responsibility and demanding greater initiative and good judgment than this. The officer should be thoroughly skilled, kind, firm, intelligent, diligent and self-sacrificing.

Selections for this office should be made solely on the basis of efficiency.

The functions of a parole officer, where the system operates most successfully, are: to familiarize himself with the history of the parolee, his character and needs, so as to understand thoroughly the circumstances, environment or weaknesses responsible for his failures in the past; to outline a definite plan of treatment; to keep thorough records of the case; to become a genuine friend of his protege, winning his confidence by showing his friendliness toward him; to know his haunts, his sports, his hobbies, his weak and strong points; to take an active interest in his employment, securing work for him when necessary and observing his industry and application. He is the logical advisor of the parolee in matters pertaining to savings, associates, personal habits and obligations, assisting him in making social contacts where necessary. If the parolee should become incorrigible, he returns him to the reformatory for further treatment.

9. *The First Friend or Sponsor.*—The protection and re-adaptation of the paroled prisoner fall upon the parole officer and the first friend or sponsor. This first friend is commonly chosen at the suggestion of the parolee. He may know something about the nature of parole, but seldom has training to qualify him for such a tremendously important task. The parole department greatly strengthens its efficiency if it undertakes to train these sponsors by means of correspondence and personal interviews. Some states appoint official first friends in the persons of county and city officers, such as deputy sheriffs, chiefs of police, etc. Michigan formerly employed first friends as supervisors and paid the pittance of one dollar for each monthly report. One brief interview usually constituted the only supervision given; but conditions have improved under the present parole commissioner.

The use of volunteer agencies, such as Prisoners' Aid Societies, and volunteer assistance of charitably disposed individuals as parole officers, should be jealously guarded. In some instances, this method has been partially successful, but is not generally a safe method. The responsibility should be placed upon trained social workers, who have no other duty. Volunteer social service is usually worth about as much as it costs. Volunteer social workers as a rule do not have the time, interest, feeling of responsibility, nor the experimental ability to persistently follow up a case and to handle it judiciously. The first friend can be used as extensively as possible, but he should never supplant the trained officer whose sole duty it is to supervise the offender.

10. *Difficulties Encountered by the Parolee.*—The most critical moment in a convict's life is not that in which the prison gates close behind him, shutting him apart from the world, but that in which it opens again to permit his return to the cold world, having lost his self-confidence and standing among men; having suffered from months or years of artificial existence; deprived of pleasures to which he was formerly accustomed; and having but little, if any, money in his pocket with which to meet necessary expenses. Without friends and without employment, the situation is crucial. If he finds employment and attempts to lead an honest life, he is likely to be recognized by some prison associate or a heartless detective and informed upon. The fear of disgrace and discharge preys upon his mind, and like "Banquo's Ghost" is ever looming up before him. Among such discouragements all the good resolutions formed through months or years of discipline can flit away in a moment's time. If there is ever a period in a man's life when he demands a true friend, it is at this disheartening time.

11. *Difficulty of Finding Proper Environment.*—It is

difficult to find environment suitable for the rehabilitation of paroled prisoners. In other words, environment needs as much correction as the prisoner. Society severely criticises the system if a parolee relapses into crime, but just take a survey of the array of temptations and criminal suggestions in any community. If the man's weakness is sexual, his baser impulses are stirred by lewd women on the streets, sparsely dressed women on the beaches rivaling the goddesses of the ancients, suggestive poses and appearances on the stage, voluptuous pictures on the screen and almost nude pictures in the magazines. If he is predisposed to drink, there are many "blind pigs" and bootleggers near at hand, and many of his would-be friends consider it the minimum of hospitality to offer him intoxicants. If his weakness is adventure and high life in the automobile, the streets are full of cars, and we have all been caught in the wild rush of their ecstatic pleasure. They are parked everywhere in tempting array. The air is hideous with their wild din. Expensive cars are driven by cheap clerks; homes are mortgaged to buy them, and he feels much out of the world if he does not own one. If his weakness is the allurement of money, he beholds the tempting lucre displayed on every hand and luxuries indulged in by others which he cannot enjoy. Enormous payrolls are conveyed carelessly through the streets; the papers are full of vivid pictures of stores being robbed and thieves getting away with easy loot. They give publicity to the most mediocre criminal exploit. Turn wherever he will, his environment lures him downward, and then downward. He hears of countless sharp practices in higher circles in handling money, bonds, and stocks, as immoral as the crimes committed by the ordinary thug. The example of these practices, and the questionable methods of high finance so often unpunished, have a decidedly immoral influence upon the young man who can be tempted to employ cruder methods to obtain his ill-gotten money. To his

way of reasoning, it is no greater crime to steal an automobile from a capitalist than it is for the capitalist to steal an entire corporation, or graft thousands of dollars building a road on which the automobile is to be operated. Who can deny that for once he is correct?

The adjustment of environment is, therefore, a hard problem—a national problem. All that can be done is to elevate the morals of the parolee as high as possible, and to give him the maximum amount of wise and friendly supervision. The average parole agent is encumbered with the tremendous task of supervising hundreds of cases, sometimes widely separated. I knew one agent who was responsible for almost 500; ten times as many as he could care for properly. If some of these cases should relapse, perhaps we could find the reason in the above handicaps rather than because of a failure of the principle.

12. *Parole Is the Test of Reformatory Methods.*—In the parole period we find the supreme test of all corrective measures which have been applied to the prisoner for his re-adjustment to society. If there has been a failure in the process of reformation, it will speedily become apparent in this time of trial in free life. The paroled man is technically and legally a prisoner trusted in free society to demonstrate that he is capable of keeping the law, and of living the life of a good citizen. There should be no hesitancy in returning him to prison if his deportment shows symptoms of criminality. Absolute business principles must prevail and sentiment must be discarded, if we would render parole effective, and retain the respect of the public for the system. Many parole agencies hesitate in this action until the parole violator has committed depredations and has again fallen into the hands of the police. This is one of the inevitable results of improper or inefficient supervision. It demonstrates that the parole system in that particular section is of little value. Whatever deterrent in-

fluence might be realized on other paroled prisoners by the strict conditions imposed upon them by parole is thereby dissipated. The parole is but little better than an absolute or unconditional discharge. We cannot afford to "play" at reformatory methods, parole and parole supervision; but on the contrary, we must get down to bed rock business principles if we wish to secure praiseworthy results—results commensurate with the expense and sacrifice put into them.

CHAPTER XIX

CONCLUSION

COMMISSIONS ON CRIME

1. *Lack of Co-ordination of Governmental Agencies.*— Throughout the foregoing treatise it will be observed that our crime curing agencies are extremely heterogeneous. They are all laboring assiduously to the end that crime may be eliminated and their motives are, for the most part, good; but their methods are so much at variance that their efforts are largely dissipated. There is no definite program and as a result our machinery is cumbersome and expensive. The criminal winks at it and continues in crime.

Everybody knows that our criminological machine is failing to function properly and every department is blaming every other department. The prisons are blaming it on the police and the courts; the courts are sure that it is the fault of the prisons and the police; the police are equally sure that the courts and the prisons are to blame, while the public is being victimized by the criminal, depending upon its divergent authorized agencies to stop crime. Each corrective branch of government is working on a separate schedule, with diverse principles, with a minimum of co-ordination; and while the public is alarmed it does nothing to correct the hodge-podge.

We have attempted to show how vindictive justice has failed to check crime and how we have all persistently neglected to become scientific in our efforts to cure the crime pestilence. We have pointed out the psychological reactions

of the criminal toward our methods to suppress crime; the necessity of a better system of diagnosis and treatment in a more individual and selective manner, and the psychological concepts of a scientific program; but there is scant hope of a better program without close co-ordination of the various factors involved in our governmental agencies.

2. *Failure Has Been Fundamental.*—There has always been one fundamental barrier to a complete amalgamation of the various criminological agencies which has its foundation in our republican form of government. The court logically falling under the judicial branch and the police and penal institutions being a part of the executive branch, while the laws are originated by the legislative branch of government, there has been comparatively little effort put forth to co-ordinate the agencies into an organic whole. It has been impossible to centralize the various departments under one authoritative head. While attempts have been made from time to time to bring about a spirit of co-operation, we cannot say that we have ever realized a condition approaching co-ordination. This may never be quite possible, but there seems to be nothing to prevent us from reaching out for greater uniformity of purpose and action. To realize this we must have the united wisdom and assistance of the best minds the country affords, to map out a sane policy, to mould public sentiment, to secure constructive legislation and to perform the great mission of making our land a safe place in which to live.

3. *Lack of Uniform Legislation.*—Various state legislatures seem disposed, as far as their limited knowledge of the technique of criminology will permit, to enact constructive laws for the protection and general welfare of the people. They have, however, proceeded upon diverse courses *ad infinitum,* with the amazing result that every state differs from every other state in its laws and methods of combatting crime. Laws, everywhere, have accumulated into

voluminous monstrosities, devoid of system, except the chronological order in which they were enacted. There are few concise criminal codes and those that do exist are conspicuously out of harmony with those of other states. No forceful leader has yet arisen capable of sifting out the best to be found in every state and digesting the whole into a composite standard for all to pattern. Public sentiment is so varied and inconsistent that such a procedure would hardly be possible. We need a Moses to lead us out of our legal wilderness and to standardize our methods, to create public reverence for the sovereignty of the law and to establish uniform business principles for the elimination of crime and to stop the making of criminals. Perhaps a crime commission in each state could do this.

4. *The Board of Public Welfare of Kansas City.*—Some communities have recognized this great need and have organized in various ways to curb crime; some states have commissions on prisons and some have departments of welfare which atempt to effect general co-operation. A few years ago Kansas City secured charter privilege to appoint and maintain a Board of Public Welfare which consisted of four members, who served without pay, but with an appropriation sufficient to conduct a variety of welfare activities—its real objectives to secure justice for the people, to eliminate the cause of crime and to correct the criminal. The commission was non-partisan and for a number of years avoided any entanglement with politics, during which period it made great strides in demonstrating to the world a scientific system of crime prevention and reformation of criminals. Every possible effort was put forth to eliminate crime at its source. General investigation was made of housing conditions, working conditions of women and children, factory conditions, contributing factors to juvenile delinquency, public and private recreation, commercialized vice, the conduct of private

philanthropic agencies, etc.; and strenuous efforts were put into effect to eliminate every unfavorable condition which touched the lives of the people.

The city was districted and each division was placed under the supervision of a capable superintendent whose business it was to know the needs of his people and to act as their friend and adviser. Community centers were conducted in a large number of schools. There was thorough supervision of commercialized recreation, factory inspection, endorsement of worthy charities, with legal authority to subdue all kinds of injustice and immorality. A Welfare Loan Agency was conducted which put out of business large numbers of loan sharks. A Free Legal Aid Bureau was maintained which secured justice and law interpretation for thousands of the weaker and more ignorant members of society. All prisoners convicted in the municipal courts fell automatically into the custody of the Board of Public Welfare, and the Municipal Farm and Women's Reformatory were operated by the agents of this Board. It was the right of this department to extend probation, imprison and parole any person convicted in the courts. It is not difficult to understand the tremendous possibilities of prevention and reconstruction of such a program. This goes to show what the strongest and best people of a city can do.

5. *The New Jersey Plan.*—A number of states maintain Boards of Charities and Corrections, with widely diversified powers, some of which are empowered to inaugurate plans for the co-ordination of institutions, but little has been accomplished in that direction by any of them. One of the most notable examples of the centralization of responsibility for the conduct and management of the public charitable and correctional institutions of an entire state is that of New Jersey. After a comprehensive survey of two special commissions the centralization of control of state institutions was placed under the direction of the State Board of Char-

ities and Corrections and the name of that department was changed to the State Board of Control of Institutions and Agencies. The state has thus concentrated into a small Board vast powers relating to charities and corrections and has thus metamorphosed a weak supervisory system into a strong, unified administrative system. Eight divisions of the department have been established as follows:[1]

Division of Architecture and Construction.
Division of Labor, Agriculture, Food and Dietetics.
Division of Education and Classification.
Division of Parole and Domestic Relations.
Division of Records, Reports and Information.
Division of Administration of Institutions.
Division of Inspection of Public Institutions.

A series of very helpful conferences has been held for the representatives of the various institutions, and uniformity of action on the part of all the state institutions is being effected.

This Board is unpaid and is non-political with very broad powers of investigation, inspection and recommendation looking toward the standardization of the state institutions. This brief is presented to show how scientific a great state may become when a large group of public spirited citizens unite their efforts to make sure that their institutions are conducted in a proper manner. What will be accomplished when we undertake to handle in the same way our whole scheme of justice?

6. *Why the English Obey the Law Better than Americans.*—Now and then we read disparaging statements that there is much greater prevalence of crime in America than in England. The allegation is as true as it is deplorable. There are several very obvious reasons for this condition. The English, from the highest to the lowest, hold the police and the courts in highest esteem and they universally respect

[1] *The New Jersey Plan in Operation,* by Burdette G. Lewis.

the supremacy of the law with the result that it is obeyed. English law is not a labryinth of petty prohibitions, impossible to enforce. The police and the courts, many decades in advance of American legal machinery, act promptly and without pervertible safeguards, to bring obviously guilty trespassers to justice. Our courts were originally patterned after the courts of England, but we have stood still while they have surged along, keeping up with the times. Our antiquated machinery for enforcing the law, as well as for the making of law, has ever been a political football, while their jurisprudence has been regarded as a real business and a patriotic duty, engrossing the keenest and best trained intellects the country afforded. There seems to be the greatest unanimity in the performance of this sacred service among all the leaders who have a part in making and enforcing the laws.

On August 3d, 1925, the International Prison Congress convened in the city of London and 500 delegates were in attendance from more than 50 countries throughout the world. The delegates from America were deeply impressed with the eminence and prestige of the English delegates. The enthusiastic devotion exhibited by these men was very much in evidence. Sir Evelyn Ruggles-Brise was elected president of the congress and, among other notable speakers, were The Lord Chancellor, Lord Cave, Lord Oxford, Chief Justice Lord Hewart, Lord Haldane, Sir Ernst Wild, Lord Asquith, and others who have been very prominent in the legal world—men of strength who are not only interested in matters of state, but are actively and definitely engaged in securing for England the best of laws, efficient penal service and uniform methods of preventing crime.

In America we have our various national conferences to deliberate upon the best methods, which meet regularly and carry considerable weight: The American Bar Association, the American Prison Association, the American Chiefs of

Police, the National Conference of Social Work and other organizations, proceeding along the various lines of crime prevention and correction, but the practical application of their findings is dissipated because the first men of our land do not lay hold of them and clinch them to our legal machinery and see that they are put into practice.

To show how much prestige this royal delegation carries in England, we present an editorial of the *London Times* which was published the day following the close of the conference:

"It was stated yesterday, at the closing session of the ninth International Prison Congress, that it has proved the most successful congress which has been held since the first meeting in London in 1872. On all grounds this claim appears to be thoroughly justified. Not only has the international character of the assembly been very marked, but, as was pointed out by the President, Sir Evelyn Ruggles-Brise, all the nations represented have been united in a common desire to introduce into the punishment and prevention of crime more reason, more justice, and more humanity. They have shown, too, a determination to bring their hopes and ideals, as far as possible, into practical realization.

"During the half-century that has passed since the Congress began its discussions the advance that has been made, partly as the result of these periodical meetings, is undoubted. In this country, especially in the last few years, there has been, as the present Home Secretary told the delegates last week, a striking diminution in the number of persons confined in prisons, in spite of the fact that in the same period the population has considerably increased. Fifty years ago there were 20,000 people in local prisons, and 10,000 in penal servitude; today the numbers are 8,000 and 1,600. What are the reasons for that decrease? Better education, no doubt, has had something to do with it. So, too, has the improvement in sobriety and in the standard and con-

dition of living. But another contributory factor without doubt has been the care taken by Judges and Magistrates to make the greatest possible use of the alternatives to detention, and that, in its turn, has been due to the growing realization that the criminal laws and the method of their administration have a two-fold object. Their mission is the prevention as well as the punishment of crime. The principle of an eye for an eye and a tooth for a tooth is not the whole of the law. Nor is it the whole duty of a man to defend himself against crime by punishing the criminal. In his own interests, looking at the question merely as a matter of common sense, he will try at the same time, if he is wise, to reform him.

"It was on this point that the chief British speakers at the Congress, one after the other, laid the most emphasis. Speaking of the Indeterminate Sentence, Lord Cave said that it is commonly approached from two distinct and, to some extent, opposite points of view. In the eyes of one school the sole end is prevention—to insure the safety of the public against the assaults of an incorrigible offender by keeping him for a prolonged period in confinement—while for the other school the end is purely reformatory. 'The first object of the prison administrator,' said Lord Oxford, 'is to prevent crime from becoming a temperament and a habit.' Lord Hewart, almost in the same terms, declared that the chief success of prison consists, after all, in preventing people from becoming prisoners; and Lord Haldane maintained that the ideal of social reform depends to a large extent on the success which attends the efforts to diminish the volume of the criminal population. 'At one extreme,' he said, 'punishment is looked upon as the retribution of society on offending members; at the other are those who hold the doctrine that punishment finds its only justification in an attempt to reform the criminal and to make him a better member of society.' Both theories are correct, so long

as neither is pressed to a point of excluding the other. That is by far the most important conclusion suggested by the united wisdom of the members of the Congress. Upon it is based every reform achieved or contemplated as the result of the modern attitude toward crime and criminals. The exclusion of children from prisons, the separation of young offenders from those of a more advanced age, the treatment of mental defectives in special institutions, the probationary systems, and, finally, the Borstal system, which this country owes to the efforts of Sir Evelyn Ruggles-Brise, are all well founded on the same principle. Society, in dealing with crime, must not think only of the community but of the individual, not only of the ninety and nine just persons but of the one sinner that may be led to repentance, not only of the confirmed criminal who must be kept in prison to prevent him from injuring his fellow men, but of the child and the first offender, who may, by wise and humane treatment, be saved from ever being exposed to contamination." [1]

7. *Local Commissions on Crime.*—When we become sufficiently surfeited with the waste and hazard of crime to see the necessity of more thorough organization and co-ordination of the various activities working upon the crime problem, we may find it to our advantage to create local comprehensive crime commissions, which will have more or less sweeping authority; commissions which will command public respect and co-operation; commissions which are non-sectarian and non-political, which will be selected on the basis of merit and endowed with sufficient funds to carry on an effective campaign for the suppression of crime and to stop the making of new criminals.

8. *A National Crime Commission.*—We need a national force of our best lawmakers, justices, psychiatrists,

[1] *The Prison Journal of the Pennsylvania Prison Society,* October, 1925. Vol. V, No. 4.

police officials, educators, publicists, social engineers and penologists to adopt homogeneous plans, to educate the public, to stimulate greater respect for our laws and our institutions. Just now comes to my hands the information that a National Crime Commission is in progress of organization with headquarters in New York City, which will doubtless function largely in the direction we have indicated. The personnel of the Executive Committee carries great conviction—gives promise of unprecedented public service. The Commission which is starting very auspiciously is organized as follows: Hon. F. Trubee Davison, Chairman; sub-committees have been appointed as follows:

1. Local organization—Hon. Richard Washburn Child, former Ambassador to Italy;
2. Police—Hon. Chester H. Rowell of California, member of Railroad Commission;
3. Social, Educational and Industrial Conditions Affecting Crime —Hon. Newton D. Baker, former Secretary of War;
4. Legal Procedure, Prosecution and Judicial Administration— Hon. Herbert S. Hadley, Chancellor of Washington University and former Governor of Missouri, Chairman;
5. Medical and Expert Testimony—Mrs. Ethel Roosevelt Derby, Chairman;
6. Legal Education and Standards of Professional Conduct, Pardons, Probation, Penal Laws and Institutional Correction —Hon. Frank O. Lowden, Former Governor of Ohio, Chairman, and
7. Legal Education and Standards of Professional Conduct— Hon. Franklin D. Roosevelt, Former Assistant Secretary of the Navy, Chairman.

The following statement of the Executive Committee in regard to the breadth and sincerity of purpose of the organization, gives us an insight into the tremendous possibilities of the commission:

"The National Crime Commission is founded upon the willingness of American Citizenship to give service where service is required. The suppression of crime and lawless-

ness in the United States appears to be an emergency requirement of this period. The National Crime Commission dedicates its service to stimulate public interest and action in the restoration of respect for the authority of the state in the performance of its fundamental duty of protecting the persons and property of its citizens.

"It expressly disclaims any purpose to take from the authorities of the Federal government, states, municipalities, communities or citizenship the responsibility which rests squarely on their shoulders. It will refuse to attempt to replace public authority just as strongly as it will urge that organized public spirit and citizenship shall act as an auxiliary and stimulant to public authority. It will conceive one of its primary purposes to awaken public opinion but it will make available facts upon which the intelligent and assured conclusions and decisive action can be accepted and undertaken.

"In the interest of good organization it will assist in the creation of local crime commissions, not only for academic surveys but, in addition, for such action as may be desirable to put a stop to law breaking and primarily those forms of criminality which threaten with violence the safety of persons and property, the disturbance of peace and the flouting of public order.

"With such local organizations of citizens desiring to be sure of their ground and inflexible in their determination to stand upon it, the National Crime Commission hopes to obtain a nation-wide co-operation and singleness of purpose and method. As a central body it not only hopes to keep alive a national vigilance and to unify opinion but will attempt to obtain standardization of criminal statistics, current information, better methods of criminal identification, and the general improvement of police, criminal procedure and penal results.

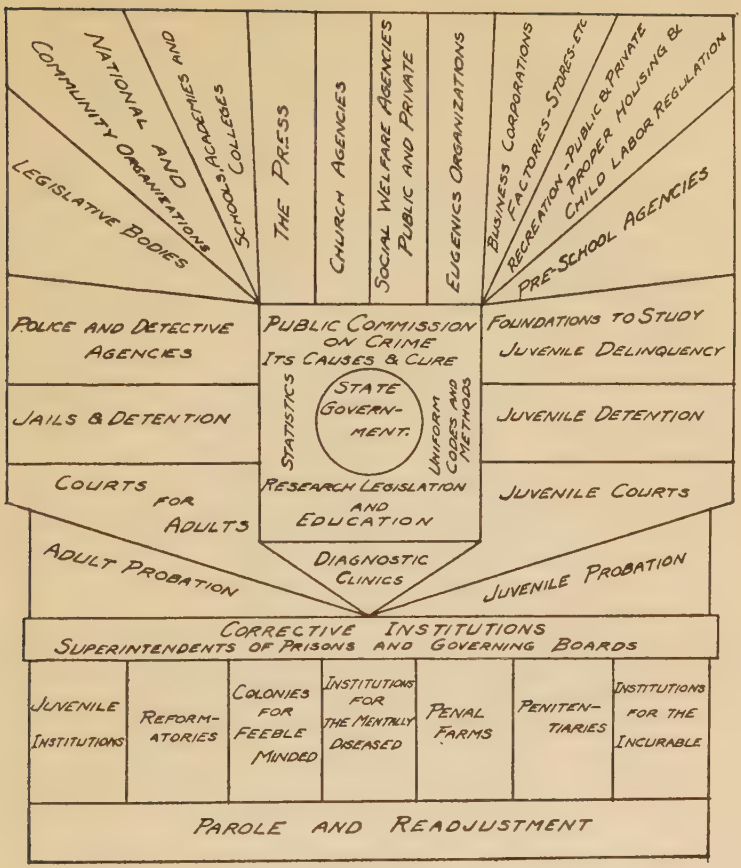
"It is by co-operation between communities and states of

the nation rather than by Federal action that the tide of crime can be turned. Toward such co-operation the National Crime Commission will devote its efforts and offer its auxiliary aid. This labor is not the labor of a day, nor will it stand firmly unless painstakingly founded upon solid information and careful organization developed with great pain.

"The Chairman and Executive Committee invite the support of all individuals and organizations by information, co-operation and willingness to serve.

"The National Crime Commission is not to be the instrument of any particular theory or cause of crime or punishment of crime. It recognizes that causes may be remote and fundamental or obvious and immediate. It recognizes that punishment for crime may err by being humane or by being pampering. These are matters to be weighed in due time. For immediate results, however, it places dependence upon methods not characterized by unnecessary brutality or which consider only the welfare and reform of the guilty, but upon those which will restore swift and certain justice dedicated to showing this generation that the cost of defiance of general welfare and authority is still too high to pay."

It is impossible at this time to go into details upon the searching functions of such a commission, but it is safe to say that such an organization as is proposed in the accompanying diagram would suffice to ferret out the anti-social causal factors in the community; foster and encourage sound prophylactic endeavor; promote or conduct better systems of statistical information; educate the public as to the best methods to combat crime; co-ordinate all governmental and private agencies into one concerted objective; group and classify the correctional institutions, exposing and discouraging graft, corrupt politics and inefficient leaders; recommend constructive legislation, eliminating



PLAN OF ORGANIZATION FOR MORE UNIFORM AND MORE SCIENTIFIC METHODS OF ELIMINATING CRIME

loop-holes from criminal procedure, and promoting uniform penal codes; unify police systems and centralize identification bureaus; insist upon the use of police for actual protection of the public against crime rather than

as mere traffic managers; insisting on the use of more secret service men; discouraging the use of jails for penalty and using them for detention purposes only; promote more scientific diagnosis and prognosis through clinics in schools, courts and prisons; improve methods of probation and parole and the supervision of the paroled and, in short, to align into one solid phalanx every social force in society toward the one all important objective—to reduce crime to the minimum.

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